



The Monetary Authority of Singapore

TRUST COMPANIES ACT (ACT 11 OF 2005)

GUIDELINES ON SCOPE OF REGULATION

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Purpose of these Guidelines

1. These Guidelines are issued pursuant to section 74 of the Trust Companies Act 2005 (Act 11 of 2005) (“the Act”) to provide guidance on the scope of regulation under the Act, as well as the scope of the exemption for the exempt persons under Section 15 of the Act.
2. The Monetary Authority of Singapore (“MAS”) will be guided by these Guidelines in considering whether a person is engaging in regulated activity under the Act, and whether the activities of a relevant exempt person under Section 15 of the Act are procedural and non-discretionary.
3. These Guidelines should be read in conjunction with the provisions of the Act, Trust Companies Regulations 2005 (“the Regulations”) as well as written directions, notices, codes and other guidelines that MAS may issue from time to time.

Definitions

4. For the purposes of these Guidelines:

“client” includes the settlor of a trust, the beneficiary of a trust and a prospective settlor or beneficiary.

Creation and Arranging

5. In considering whether a person is engaged in the creation of an express trust or in arranging for any person to act as trustee in respect of an express trust, MAS will take into account such activities undertaken, including but not limited to the following -
 - (a) preparation of documents relating to an express trust, such as the trust deed, letter of wishes, minutes of the trustee, agreements between trustee and other parties;
 - (b) advising on documents relating to an express trust, including the trust deed, letter of wishes, minutes of the trustee, agreements between trustee and other parties;

- (c) advising on trust structures, including tax, legal or accounting issues;
- (d) seeking a person to act as trustee or provide trust administration services;
- (e) compiling information from any other parties connected with or related to the express trust; and
- (f) incorporation of companies to hold trust assets, including drafting of documents relating to or connected with such incorporation purposes.

Administration

6. In considering whether a person is engaged in trust administration services in relation to an express trust, such activities that MAS will take into account include but are not limited to the following -

- (a) keeping of accounting records relating to an express trust and the preparation of trust accounts;
- (b) acting as a custodian without also acting as a trustee;
- (c) the management and administration of trust assets that are the subject of an express trust;
- (d) dealing with trust assets that are the subject of an express trust, including the investment, transfer and disposal of such assets;
- (e) the distribution of trust assets that are the subject of an express trust;
- (f) the payment of expenses or remuneration out of an express trust;
- (g) review and monitoring the activities of investment advisers, agents, and persons to whom a trustee has delegated any trust, power or discretion;
- (h) exercising any trust, power or discretion on behalf of a trustee;
- (i) opening bank accounts for an express trust; and
- (j) transferring assets into an express trust.

What constitutes “procedural and non-discretionary”

7. An activity that is procedural and non-discretionary would not involve advising on the trust or making significant decisions affecting the trust.

8. The following are examples of what MAS considers as procedural and non-discretionary trust administration services: -

(a) carrying out the actual mechanics of making a distribution would be procedural and non-discretionary but not the decision on whether to make a distribution;

(b) obtaining signatures from or forwarding copies of documents to clients would be procedural and non-discretionary but not the preparation of or amendments to documents relating to a trust.