

# Consumer Protection (Fair Trading) (Amendment) Bill

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**Bill No. 00/2007.**

*Read the first time on*

*20xx.*

A BILL

*intituled*

An Act to amend the Consumer Protection (Fair Trading) Act (Chapter 52A of the 2004 Revised Edition) and to make a related amendment to the Small Claims Tribunals Act (Chapter 308 of the 1998 Revised Edition).

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

### Short title and commencement

1. This Act may be cited as the Consumer Protection (Fair Trading) (Amendment) Act 2007 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

### 5 Amendment of section 2

2. Section 2 of the Consumer Protection (Fair Trading) Act (referred to in this Act as the principal Act) is amended —

(a) by inserting, immediately after the definition of “consumer transaction” in subsection (1), the following definitions:

10 ““financial products” includes any arrangements, transactions and contracts regulated, or supplied by any person regulated, under any written law administered by the Monetary Authority of Singapore or under the Commodity Trading Act (Cap. 48A);

15 “financial services” includes any services regulated, or supplied by any person regulated, under any written law administered by the Monetary Authority of Singapore or under the Commodity Trading Act;”;

20 (b) by deleting sub-paragraph (ii) of paragraph (a) of the definition of “goods” in subsection (1) and substituting the following sub-paragraph:

“(ii) financial products and credit, including credit extended solely on the security of land;”;

25 (c) by deleting the semi-colon at the end of paragraph (c) of the definition of “services” in subsection (1) and substituting the word “; and”, and by inserting immediately thereafter the following paragraph:

“(d) financial services;”;

30 (d) by inserting, immediately after the definition of “specified body” in subsection (1), the following definition:

““specified dispute resolution scheme” means, in respect of disputes arising in relation to any consumer transaction, any dispute resolution scheme specified for the purposes of section 7(10) by regulations made under

section 20(2)(j) in respect of disputes arising in relation to a class of consumer transactions to which that consumer transaction belongs;”;

(e) by inserting, immediately after the words “agent of the person” at the end of the definition of “supplier” in subsection (1), the words “, and the word “supply”, with its grammatical variations and cognate expressions, shall have corresponding meanings”; and

(f) by inserting, immediately after subsection (2), the following subsection:

“(3) For the purposes of the definitions of “financial products” and “financial services” in subsection (1), a reference to a person regulated under a written law shall include a person exempted from being licensed, approved or regulated under that written law.”.

### **Amendment of section 7**

3. Section 7 of the principal Act is amended —

(a) by deleting the words “or rental” in subsection (2); and

(b) by inserting, immediately after subsection (9), the following subsection:

“(10) For the purposes of subsection (9)(b), if any specified dispute resolution scheme was available to the consumer in respect of the dispute, the court shall consider whether the consumer had sought to resolve the dispute through such a scheme.”.

### **New section 18A**

4. The principal Act is amended by inserting, immediately after section 18, the following section:

#### **“Burden of proof**

**18A.—**(1) If, in any proceedings taken in any court between a consumer and a supplier in relation to a consumer transaction, any dispute arises as to whether the supplier has complied with any requirement specified under subsection (2), the burden of proving that the supplier has so complied shall be on the supplier.

(2) The Minister may make regulations specifying the requirements of this Act or the regulations made thereunder to which subsection (1) shall apply.

(3) This section shall not affect any other rule of law that places a burden of proof on the supplier.”.

### **Amendment of section 20**

5. Section 20(2) of the principal Act is amended —

(a) by deleting paragraph (h) and substituting the following paragraph:

“(h) prescribing the rights and obligations of parties in relation to a consumer transaction involving any practice regulated under the Act or regulations made thereunder, including the right to sue for the purpose of enforcing such rights or obligations in circumstances specified therein;”;

(b) by deleting the full-stop at the end of paragraph (i) and substituting the word “; and”, and by inserting immediately thereafter the following paragraphs:

“(j) specifying dispute resolution schemes for the purposes of section 7(10);

(k) modifying the application of section 6(2), in relation to any class of supplier or any class of goods or services or transactions, where multiple actions involving the same unfair practice are commenced under section 6(1) by the same consumer; and

(l) prescribing anything which may be prescribed under this Act.”.

### **Amendment of First Schedule**

6. Paragraph 2 of the First Schedule to the principal Act is amended by deleting sub-paragraphs (a) to (g) and sub-paragraph (j).

### **Related amendment to Small Claims Tribunals Act**

7. Section 5 of the Small Claims Tribunals Act (Cap. 308) is amended by inserting, immediately after subsection (5), the following subsection:

“(6) For the purposes of this section, a contract to buy or sell foreign currency notes made with a person holding a valid money-changer’s licence under the Money-Changing and Remittance Businesses Act (Cap. 187) is deemed to be a contract for the provision of services.”.

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## EXPLANATORY STATEMENT

This Bill seeks to amend the Consumer Protection (Fair Trading) Act (Cap. 52A), primarily, to extend the application of the Act to certain financial products and financial services which are currently excluded, to place the burden of proving that the supplier has complied with certain requirements of the Act or the regulations (to be specified in regulations) on the supplier (clause 4) and to make a related amendment to the Small Claims Tribunals Act (Cap. 308) (clause 7).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 to insert 3 new definitions of “financial products”, “financial services” and “specified dispute resolution scheme” and to make amendments to certain other definitions which are consequential on the extension of the Act to certain financial products and financial services effected by the amendments made by clause 6.

Clause 3 amends section 7 by deleting the words “or rental” in subsection (2). This amendment is necessitated by the change made by the Small Claims Tribunals (Amendment) Act 2005 (Act 43 of 2005) which extended the jurisdiction of the Small Claims Tribunals to include any claim relating to a dispute arising from any contract for the lease of residential premises that does not exceed 2 years. Clause 3 also inserts new section 7(10) to require a court to consider whether a consumer had sought to resolve a dispute through a specified dispute resolution scheme if such a scheme was available to the consumer. It is envisaged that the Financial Industry Disputes Resolution Centre Limited (FIDReC) will be prescribed as a specified dispute resolution scheme for disputes relating to certain financial products and services regulated under written laws administered by the Monetary Authority of Singapore.

Clause 4 inserts a new section 18A to place the burden of proving that the supplier has complied with certain requirements of the Act or the regulations (to be specified in regulations) on the supplier.

Clause 5 amends section 20(2) to give the Minister power to make regulations specifying dispute resolution schemes for the purposes of section 7(10) (new paragraph *(j)*), to modify the application of section 6(2) (relating to the prescribed limit in an action to sue for an unfair practice) where there are multiple actions commenced by the same consumer for the same unfair practice (new paragraph *(k)*) and to prescribe anything which may be prescribed under the Act (new paragraph *(l)*). For the purposes of new paragraph *(k)*, actions will be taken to involve the same unfair practice if the

unfair practice complained of in each action is established based on substantially the same facts. Paragraph (*h*) is also amended to clarify that the power to prescribe the rights and obligations of parties may be exercised in relation to a consumer transaction involving any practice regulated under the Act or regulations made thereunder.

Clause 6 amends the First Schedule by deleting references to the written laws administered by the Monetary Authority of Singapore and to the Commodity Trading Act specified in sub-paragraphs (*a*) to (*g*) and sub-paragraph (*j*) of paragraph 2. Transactions and activities regulated under these written laws are currently excluded from the meaning of “consumer transaction” and the Act therefore does not apply to them. Their deletion from the First Schedule will extend the application of the Act to such transactions and activities.

Clause 7 makes a related amendment to section 5 of the Small Claims Tribunals Act by inserting new subsection (6). This amendment deems a contract to buy or sell foreign currency notes made with a licensed money-changer to be a contract for the provision of services for the purposes of that section and thereby clarifies that a Small Claims Tribunal has jurisdiction to hear and determine a claim relating to a dispute arising from such a contract.

## EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

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