

South Australia

## **Trustee Companies Regulations 2004**

under the *Trustee Companies Act 1988*

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### **Contents**

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Returns to be made by trustee companies
- 5 Information for prospective investors in common funds

### Schedule 1—Trustee Company Statement

### Schedule 2—Revocation of *Trustee Companies Regulations 1989*

- 1 Revocation of *Trustee Companies Regulations 1989*
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#### **1—Short title**

These regulations may be cited as the *Trustee Companies Regulations 2004*.

#### **2—Commencement**

These regulations come into operation on the day on which they are made.

#### **3—Interpretation**

In these regulations, unless the contrary intention appears—  
*Act* means the *Trustee Companies Act 1988*.

#### **4—Returns to be made by trustee companies**

For the purposes of section 17(1) of the Act—

- (a) February and September are the prescribed months; and
- (b) the form set out in Schedule 1 is the prescribed form.

#### **5—Information for prospective investors in common funds**

For the purposes of section 20(2)(b) of the Act, money is received by a trustee company for investment in a common fund in prescribed circumstances if the investor has been furnished with a prospectus that—

- (a) satisfies the disclosure requirements of Chapter 6D of the *Corporations Act 2001* of the Commonwealth; and
- (b) contains the information specified in section 20(3)(a) of the Act; and
- (c) contains a statement to the effect that copies of the documents referred to in section 20(3)(b) and (c) of the Act are available for inspection on request to the company.

## Schedule 1—Trustee Company Statement

Note—This statement must be completed and signed by 2 directors of the trustee company by which it is to be lodged duly authorised on that behalf by the trustee company.

Statement by ..... (the Company)  
 (Name of trustee company)

to be lodged with the Corporate Affairs Commission during the month of \*February/September  
 20 .

(\* delete whichever is inapplicable)

1 On ..... (note 11)  
 (the balance date):

1.1 The contributed equity of the company was \$ ..... made up as follows:

- (a) Fully paid (insert type, eg ordinary) shares of \$ ..... per share amounting to \$ .....
- (b) Partly paid (insert type, eg ordinary) shares of \$ ..... per share, paid to \$ (insert amount paid to), ..... amounting to \$ .....
  - (i) Amount that may be called up at the discretion of the company \$ .....
  - (ii) Amount that may be called up in the event of the winding up of the company \$ .....

1.2 The net tangible assets of the company (ie the amount calculated by deducting total liabilities from total tangible assets) amounted to \$ .....

2 The following loans were obtained from financial institutions other than ADIs and insurance companies during the period of 6 months preceding the balance date:

Name of Institution	Amount of Loan \$'000	Term of Loan and Maturity Date	Interest Rate	Security (if applicable)

3 The following contingent liabilities existed at the balance date:  
 (Show the amounts where they can be quantified):

Guarantees of liabilities of related parties .....	\$'000
Guarantees of liabilities of other persons .....	
Other contingent liabilities (note 2) .....	
Total .....	\$

4 The guarantees of liabilities of related parties (note 4) stated above were made up as follows:

Name of Related Party	Amount \$'000
Total .....	\$

- 5 The nature and amount of credit and standby facilities available to the company as at the balance date, a summary of the restrictions affecting those facilities and the duration of each of those facilities were as described below:

Nature of Facility	Summary of Restrictions	Duration	Amount of Facility available to the Company \$'000	Amount of Facility unused at balance date \$'000
			Total	\$

- 6 The balance-sheet as at ..... (note 11) and the profit and loss account for the 6 months ended on that date were as follows:

Balance-sheet as at .....	\$'000
<b>Current assets</b>	
Cash with an ADI and cash on hand .....	
Bills receivable:	
ADI accepted or endorsed (note 3) .....	
other (note 3) .....	
Investments in and loans to related parties (note 4)	
investments (notes 3 and 5) .....	
loans:	
Secured (notes 1 and 3) .....	
Unsecured (note 3) .....	
Other loans and deposits (note 10):	
secured (notes 1 and 3) .....	
unsecured (note 3) .....	
Government and semi-government securities (note 6) .....	
Shares, units, options, debentures and convertible notes:	
quoted on a prescribed financial market—market value \$	
(notes 3, 5 and 7) .....	
not quoted on a prescribed financial market (notes 3 and 7) .....	
Interests in partnerships, trusts and unincorporated joint ventures	
(notes 3 and 8) .....	
Lease receivables (note 3) .....	
Property held for resale (note 3) .....	
Other current assets (notes 2 and 3) .....	
<b>Total current assets</b> .....	\$

**Trustee Companies Regulations 2004**  
 Schedule 1—Trustee Company Statement

<b>Non-current assets</b>	\$'000
Bills receivable:	
ADI accepted or endorsed (note 6) .....	
other (note 6) .....	
Investments in and loans to related parties (note 4)	
investments (notes 5 and 6) .....	
loans:	
secured (notes 1 and 6) .....	
unsecured (note 6) .....	
Other loans and deposits (note 10):	
secured (notes 1 and 6) .....	
unsecured (note 6) .....	
Government and semi-government securities (note 6)	
Shares, units, options, debentures and convertible notes:	
quoted on a prescribed financial market—market value \$	
(notes 5, 6 and 7) .....	
not quoted on a prescribed financial market (notes 5 and 6)	
Interests in partnerships, trusts and unincorporated joint ventures (notes 6 and 8)	
Lease receivables (note 6) .....	
Property held for resale (note 6) .....	
Property, plant and equipment (note 6) .....	
Intangible assets (notes 2 and 6) .....	
Other non-current assets (notes 2 and 6) .....	
<b>Total non-current assets</b> .....	_____
<b>Total assets</b> .....	\$ _____
<b>Current liabilities</b>	\$'000
ADI overdrafts and loans:	
secured (note 1) .....	
unsecured .....	
Loans from other financial institutions:	
secured (note 1) .....	
unsecured .....	
Bills payable and liabilities under promissory notes .....	
Subordinated loans from related parties .....	
Clients' balances and deposits:	
secured (notes 1 and 2) .....	
unsecured .....	
Trade creditors and accrued expenses .....	
Lease payables .....	

Provisions:	
Income tax .....	
Dividends .....	
Other .....	
Deferred income (notes 2 and 9) .....	
Other amounts payable:	
secured (notes 1 and 2) .....	
unsecured (note 2) .....	
<b>Total current liabilities</b> .....	<u>\$</u>
<b>Non-current liabilities</b>	<u>\$'000</u>
ADI overdrafts and loans:	
secured (note 1) .....	
unsecured .....	
Loans from other financial institutions:	
secured (note 1) .....	
unsecured .....	
Bills payable and liabilities under promissory notes .....	
Subordinated loans from related parties .....	
Clients' balances and deposits:	
secured (notes 1 and 2) .....	
unsecured .....	
Lease payables .....	
Provisions:	
Income tax .....	
Other .....	
Deferred income (notes 2 and 9) .....	
Other amounts payable:	
secured (notes 1 and 2) .....	
unsecured (note 1) .....	
<b>Total non-current liabilities</b> .....	<u>\$</u>
<b>Total liabilities</b> .....	<u>\$</u>
<b>Net assets/shareholders' funds</b> .....	
(Total assets less total liabilities)	
<b>Less: intangible assets</b> .....	<u>\$</u>
<b>Net tangible assets</b> .....	<u>\$</u>
<b>Profit and loss account for the 6 month period ended</b>	
..... (note 11)	
Operating profit (loss) .....	
Income tax .....	
Operating profit (loss) after income tax .....	
Profit (loss) on extraordinary items after income tax .....	
Net profit (loss) .....	

7 The balance-sheet and the profit and loss account of the company have been drawn up so as to give a true and fair view of the state of affairs of the company as at ..... (note 11) and the profit or loss of the company for the period ended on that date.

8 The classification of assets and liabilities and the valuation of assets in the balance-sheet are based on the company's intentions at the balance date as to the use or disposal of those assets and the repayment of liabilities.

9 At the date of the Declaration, there are reasonable grounds to believe that the company will be able to pay its debts as and when they fall due.

10 During the period of 6 months preceding the balance date:  
 There had been the following significant changes in the nature of the principal activities of the company (note 12):

.....  
 .....

The following items, transactions or events of a material and unusual nature affected the results of the company's operations (note 12):

.....  
 .....

The provisions of the *Trustee Companies Act 1988* in respect of investment of moneys held by the company on trust had been complied with.

The company had complied with all other requirements of the *Trustee Companies Act 1988*.

11 The following matters or circumstances have arisen since the balance date and have significantly affected or may significantly affect—

- (a) the operations of the company; or
  - (b) the results of those operations; or
  - (c) the state of affairs of the company,
- in subsequent periods (note 12):

.....  
 .....

.....  
 (Signature of duly authorised director of the Company)

.....  
 (Signature of duly authorised director of the Company)

Definitions

- 1 **Current assets** means cash or other assets that would in the normal course of business be consumed or converted into cash within 12 months of the balance date.
- 2 **Non-current assets** means assets that would in the normal course of business be consumed or converted into cash after 12 months of the balance date.
- 3 **Current liabilities** means liabilities that in the normal course of business would be due and payable within 12 months of the balance date.
- 4 **Non-current liabilities** means liabilities that would in the normal course of business be due and payable after 12 months of the balance date.

Notes—

- 1 Indicate the nature and extent of security by broad categories.
- 2 Provide details of major components if the total amount is material.
- 3 State at lower of cost and net realisable value.
- 4 **Related parties** includes—
  - (a) a related corporation; and
  - (b) —
    - (i) a director; or
    - (ii) an executive officer; or
    - (iii) a secretary,  
of the reporting company or of a related corporation, their relatives and companies controlled by them, and any unincorporated association (including a trading trust) if a material beneficial interest is held by those parties or any combination of those parties; and
  - (c) any party that can significantly influence the management or operating policies of the reporting company; and
  - (d) any party whose management or operating policies are able to be significantly influenced by the reporting company or a director, executive officer or secretary of the reporting company; and
  - (e) any party whose management or operating policies are able to be significantly influenced by a third party that is in a position to exercise a similar influence on the reporting party.

**Related corporation** means a corporation that is a related corporation in relation to the reporting company under section 50 of the *Corporations Act 2001* of the Commonwealth.

**Unincorporated associations** means unincorporated joint ventures, partnerships, trusts or any other forms of unincorporated associations.
- 5 Indicate types of investments by broad categories.
- 6 State at cost or valuation less amounts written off or provided for depreciation or permanent diminution in value.
- 7 **Prescribed financial market** means a prescribed financial market within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth.
- 8 Indicate the nature and extent of the interests by broad categories.
- 9 Any unearned income must not be included in an estimate of the gross amount of a class of debts unless the amount of unearned income so included is shown as a deduction from the estimate of the gross amount of the class of debts concerned.
- 10 Includes mortgages.
- 11 In the case of a statement to be lodged during February of any year, the date to be shown is 31 December of the year preceding that February.  
In the case of a statement to be lodged during September of any year, the date to be shown is 30 June of that year.
- 12 If no change, insert "nil".

## **Schedule 2—Revocation of *Trustee Companies Regulations 1989***

### **1—Revocation of *Trustee Companies Regulations 1989***

The *Trustee Companies Regulations 1989* are revoked.

**Trustee Companies Regulations 2004**

Schedule 2—Revocation of *Trustee Companies Regulations 1989*

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**Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

**Made by the Governor**

with the advice and consent of the Executive Council  
on 19 August 2004

No 172 of 2004

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