

LEGAL UPDATE

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LEGISLATION UPDATE

SGX PROPOSES BUSINESS CONTINUITY MANAGEMENT RULES FOR MEMBERS

Consultation Paper Proposes Rules for SGX Members to be Disaster-Ready

The Singapore Exchange Limited (the “**SGX**”) is inviting comments from the public on new proposed business continuity management (“**BCM**”) requirements targeted at its members. The proposed rules aim to ensure that members are equipped to:

- manage operational disruptions;
- minimize the impact of a major disruption or crisis; and
- resume critical business functions in the shortest timeframe possible.

The BCM requirements set out in the consultation paper are similar to and based upon the BCM guidelines for financial institutions issued by the Monetary Authority of Singapore in 2003. They comprise a set of rules (the “**BCM Rules**”) and an accompanying practice note (the “**BCM Practice Note**”) which are intended to apply to both securities and derivatives members of the SGX.

With these rules, the SGX hopes to foster greater market confidence in its members’ preparedness in risk-management and disaster recovery

The public has until **22 May 2008** to submit feedback to the SGX.

The proposed BCM Rules

The SGX member firms will be required to adopt and implement the following measures:

- Assess business and operational risks and maintain adequate business continuity arrangements;
- Document business continuity arrangements in a business continuity plan, and designate a senior officer (being a person occupying at least the position of director) to be responsible for the same. The recommended content of the business continuity plan is set out in the BCM Practice Note (please refer to the next section below);
- Review and test the business continuity plan regularly, at least once every year; and
- Appoint an emergency contact person, and furnish the contact information of such person to the SGX, the SGX Clearing House (the “**Clearing House**”) or The Central Depository (Pte) Limited (the “**CDP**”) (as appropriate). The emergency contact person should be contactable at all times.

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The BCM Rules are to be inserted into the following rulebooks: the Singapore Exchange Securities Trading Limited Rules, the Futures Trading Rules, the Clearing Rules of the CDP and the Clearing Rules of the Singapore Exchange Derivatives Clearing Limited.

The proposed BCM Practice Note

The proposed BCM Practice Note provides practical guidance on the implementation of the BCM Rules. It sets out the critical areas to be covered in a member firm's business continuity plan and the actions to be taken in the event of an emergency.

Each member of the SGX is to establish a business continuity plan which should include the following elements:

- *Risk assessment*: a comprehensive assessment of business continuity risks and threat scenarios;
- *Business impact analysis*: an evaluation of the impact of the abovementioned risks and threat scenarios;
- *Work area recovery*: continuity arrangements for critical functional capabilities if the primary office becomes inaccessible;
- *Crisis communications*: a communications plan to liaise with employees, customers and regulatory authorities during a crisis;
- *Roles and responsibilities*: ascertainment of key personnel and staff and their roles, responsibilities and reporting lines and ensuring that, should they be absent, alternative personnel will be able to take over their functions;
- Backup for critical functions, information technology systems and data;
- *Key service providers*: assessment of dependency on key service providers in recovery strategies and recovery time objectives, and ensuring that they are able to deliver the necessary support in times of crisis; and
- *Evaluation of outsourced service providers*: assessment of whether the service providers have established satisfactory business continuity plans commensurate with the nature, scope and complexity of the outsourced services.

It is also proposed that each member establishes a crisis management plan detailing emergency response procedures, responsibilities of the crisis management team, command and control structures and salvage and restoration procedures.

The BCM Practice Note also stipulates emergency procedures such as the immediate notification to the SGX, the Clearing House or the CDP (as appropriate) if a member's business operations are significantly disrupted or its business continuity plan activated, and the submission of status reports if a "wide-area crisis" is declared. A "wide-area crisis" includes any incident where the operations of a large number of market participants are simultaneously disrupted.

References

To view the SGX press release on this consultation paper, please click [here](#).

To view the full text of the consultation paper including the proposed BCM Rules and the BCM Practice Note, please click [here](#).

If you would like more information about this update or wish to discuss how the proposed rules may potentially affect you or your business, please feel free to contact the corporate lawyers in Drew & Napier LLC (please refer to the Directors' Profiles on our [website](#)), or any of the following lawyers:

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