

CAPITAL MARKETS AND SERVICES ACT 2007 (Act 671)

An Act to consolidate the Securities Industry Act 1983 [Act 280] and Futures Industry Act 1993 [Act 499], to regulate and to provide for matters relating to the activities, markets and intermediaries in the capital markets, and for matters consequential and incidental thereto.

Section 288(2) and 289(1) of the CMSA 2007

**PART VI
ISSUES OF SECURITIES AND TAKE-OVERS AND MERGERS**

**Division 5
Unit Trust Schemes and Prescribed Investment Schemes**

**Requirement for trustee and deed
288.**

(1) Subject to subsection (2), every person issuing, offering for subscription or purchase, or making an invitation to subscribe for or purchase, any unit shall—

(a) ensure that a trustee who has been approved by the Commission under section 289 and who is eligible to be appointed or to act as trustee under section 290 has been appointed;

(b) enter into a deed that has been registered under section 293 and that meets with the requirements of section 294 or ensure that there is in force a deed that has been registered under section 293 and that meets with the requirements of section 294; and

(c) comply with the requirements and provisions of this Act.

(2) No person except a management company approved by the Commission under section 289 or a person authorized to act on behalf of a management company that has been approved by the Commission under section 289 shall—

(a) issue;

(b) offer for subscription or purchase; or

(c) invite any person to subscribe for or purchase, any unit.

(3) A person who contravenes subsection (1) or (2) commits an offence.

**Approval of trustee and management company
289.**

(1) No person shall act or be appointed to act as trustee or as a management company in relation to a unit trust scheme or prescribed investment scheme without obtaining the prior approval of the Commission to act as trustee or as a management company.

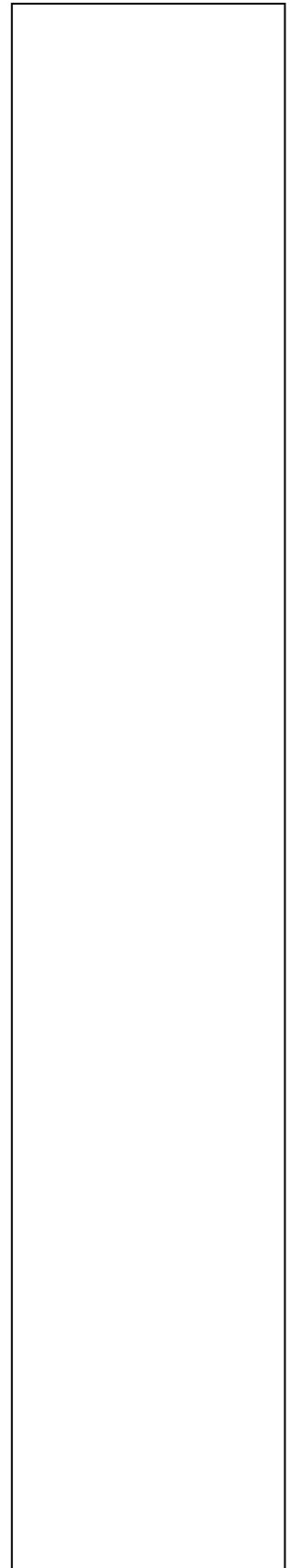
(2) The Commission may, subject to such terms and conditions as it thinks fit, approve—

(a) a company to act as a management company of a unit trust scheme or a prescribed investment scheme; and

(b) a person who is eligible to be appointed or to act as trustee under section 290, to act as trustee of a unit trust scheme or a prescribed investment scheme.

(3) The Commission may, at any time, by reason of a breach of a term or condition subject to which the approval was granted under this Division or by reason of a contravention of any securities law, revoke such approval.

(4) Without prejudice to subsection (1), the Commission may impose such other terms and conditions as it thinks fit while the approval is in force, but if the terms and conditions proposed to be imposed are likely to prejudice the interests of the management company or trustee, as the case may be, the Commission shall give the management company or trustee an opportunity to be heard.



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(5) An application for an approval under subsection (2) shall be made to the Commission in accordance with such procedure or other requirement as may be specified by the Commission.

(6) A trustee or a management company who contravenes subsection (1) commits an offence.