

1. Subject:

Whether:

- a. the additional amount of US\$X in excess of each US\$1,000 in principal amount of the Notes (as defined below) in the computation of the Total Consideration (as defined below) (i.e. the **"Tender Fees"**) would be treated as "break cost" (as defined in Section 13(16) of the Income Tax Act 1947 (2020 Revised Edition)) (the **"ITA"**) under the qualifying debt securities (**"QDS"**) scheme, in which case the Tender Fees would not be subject to withholding tax when paid or deemed paid by the issuer of the Notes (the **"Issuer"**) to non-resident holders of the Notes (the **"Holders"**).
 - b. Holders would also be entitled to the QDS tax exemptions and concessions in respect of such amount under Sections 13(1)(ba) and 43H of the ITA, and individuals deriving such income (other than through a partnership in Singapore or from the carrying on of a trade, business or profession in Singapore) would be exempt from tax on such income pursuant to Section 13(1)(zk) of the ITA.
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2. Relevant background and facts:

- a. The Issuer is a Singapore incorporated company.
- b. It had issued a tranche of notes due in Year T (the **"Original Notes"**), and further issued another tranche of notes (the **"Additional Notes"**) due similarly in Year T. The Additional Notes was consolidated and formed a single series with the Original Notes (the Additional Notes and the Original Notes are referred collectively as the **"Notes"**).
- c. The Notes are QDS for the purposes of the ITA.
- d. The Issuer has made an offer to purchase the Notes (the **"Tender Offer"**), for cash, up to a certain aggregate principal amount of the Notes. The Tender Offer is subject to the satisfaction of certain conditions of the Tender Offer.
- e. The applicable consideration payable per US\$1,000 principal amount of Notes validly tendered at or prior to the applicable early tender deadline and accepted for purchase (subject to proration, if any) (the **"Total Consideration"**) is equal to the Clearing Price (details below), as determined pursuant to a specified procedure as described below and includes the applicable early tender payment. The consideration payable

per US\$1,000 principal amount of Notes validly tendered after the applicable early tender deadline but at or prior to the applicable expiration deadline and accepted for purchase (subject to proration, if any) (the “**Tender Offer Consideration**”) shall be equal to (i) the applicable Total Consideration minus (ii) the applicable early tender payment.

- f. The Total Consideration and the Tender Offer Consideration will be payable in cash. In addition to the Total Consideration or the Tender Offer Consideration, as applicable, Holders who validly tendered Notes that are accepted for purchase will also receive the applicable accrued interest from the last interest payment date on the Notes up to, but not including, the settlement date for the Notes accepted for purchase.

Procedure for determining Clearing Price

- g. Tender instructions may be submitted in the form of either a “Competitive Offer” or a “Non-Competitive Offer” (both as summarised below). The Issuer will accept Notes validly tendered in the Tender Offer in the order of the lowest to the highest bid prices specified or deemed to have been specified by tendering Holders at or prior to the early tender deadline (if the Tender Offer is fully or oversubscribed at such time) or the expiration deadline, and will select the single lowest bid price (i.e. the **Clearing Price**) so specified that will enable the Issuer to purchase the maximum principal amount of Notes validly tendered at or prior to the early tender deadline (if the Tender Offer is fully or oversubscribed at such time) or the expiration deadline, such that the aggregate purchase price for such Notes would not exceed the maximum amount under the Tender Offer.

Competitive Offers

- h. The bid price that Holders specify for each US\$1,000 in principal amount of Notes must be in increments of a certain amount and must be at least the specified minimum price (the “**Minimum Price**”) but not greater than the specified maximum price (the “**Maximum Price**”) (such range, the “**Accepted Bid Price Range**”).
- i. If the Issuer accepts a Competitive Offer, the relevant Holder will receive the Clearing Price for the Notes. In respect of each Competitive Offer that is accepted, the Issuer will pay the Clearing Price to each Holder whose Competitive Offer of Notes is accepted, even if the Clearing Price is higher than the bid price specified by the tendering Holder in its tender instruction.

Non-Competitive Offers

- j. Non-Competitive Offers must specify the principal amount of the Notes, in the specified minimum denomination for the Notes, and in integral multiples of US\$1,000 in excess thereof that the relevant Holder is offering pursuant to such Non-Competitive Offer. Tender instructions that either (i) do not specify a bid price or (ii) specify a bid price equal to the Minimum Price will be treated as “Non-Competitive Offers”. Each Non-Competitive

Offer, whether falling within (i) or (ii) above, will be deemed to have specified the Minimum Price.

- k. The Tender Offer was oversubscribed at the early tender deadline. The Issuer has determined the Clearing Price and the Total Consideration for the Tender Offer to be US\$(1,000+X).
- l. The Tender Fees paid to the Holders (over the principal amount of their Notes) was determined pursuant to the procedure described in paragraph (g) above and the amount of which is within the Acceptable Bid Price Range. In essence, the Tender Fees represent the amount payable to the Holders (over the principal amount of their Notes) pursuant to the Tender Offer to compensate such Holders for the loss or liability incurred by them in connection with such early redemption of the Notes.

3. Relevant legislative provisions:

- a. Income Tax Act 1947 (2020 Revised Edition) - Sections 13(1)(ba), 13(1)(zk), 13(2F), 13(16) and 43H

4. The rulings:

- a. The Tender Fees would be treated as “break cost” under Section 13(16) of the ITA. Subject to satisfying the governing conditions under Sections 43H and 13(2F) of the ITA, and the Income Tax (Qualifying Debt Securities) Regulations, where applicable:
 - (i) Holders deriving the Tender Fees would be entitled to tax exemptions and concessions available under Sections 13(1)(ba) and 43H of the ITA, and individuals deriving such income (other than through a partnership in Singapore or from the carrying on of a trade, business or profession in Singapore) would be exempt from tax on such income under Section 13(1)(zk) of the ITA; and
 - (ii) The Tender Fees would not be subject to withholding tax when paid or deemed paid by the Issuer to non-resident Holders.

5. Reason(s) for the decision:

- a. The Tender Fees fall within the definition of “break cost” under section 13(16) of the ITA as it represents the amount payable to Holders to compensate Holders for the loss incurred by them in connection with such early redemption of the Notes.

Disclaimer

The published summary of the advance ruling is for general reference only. It is binding only in respect of the applicant of the advance ruling and the specified transaction under consideration of the advance ruling. All taxpayers should exercise caution in relying upon the published summary of the advance ruling, as the Comptroller is not bound to apply the same tax treatment to a transaction that is similar to the specified transaction.

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