

SECTION 1 INTRODUCTION

A. Forms of Business Organisations

14.1.1 Persons wishing to conduct a business in Singapore may do so through the following:

- A Sole Proprietorship
- A Partnership
- A Limited Partnership
- A Limited Liability Partnership
- A Company
- A Business Trust

B. Regulation of Business Organisations

14.1.2 Businesses fall within the regulatory purview of the **Accounting and Corporate Regulatory Authority (ACRA)**. In addition, fund raising activities by businesses that involve the securities and futures markets come under the supervision of the Monetary Authority of Singapore. There are also industry – specific licensing requirements that need to be complied with. (To find out more about the business registration and licensing processes and applications, the reader may wish to visit the online Business Licensing Service on the [Business.gov.sg website](http://Business.gov.sg)).

SECTION 2 SOLE PROPRIETORSHIPS

A. What is a 'Sole Proprietorship'?

14.2.1 A 'Sole Proprietorship' may be described as a business that is carried on by a person (which includes individuals or legal entities such as companies) on his, her or its own without the use of a separate and distinct business form.

1. Rights and liabilities of a 'Sole Proprietorship'

14.2.2 The sole proprietorship is the simplest form of business organisation. The law does not regard the sole proprietorship business as a different entity from its proprietor (or owner). As such, all rights that the business has are rights that belong to the proprietor. Similarly, all liabilities or debts that are incurred by the business are in law the liabilities or debts of the proprietor. The assets and profits that the business generates are owned by the proprietor who is personally liable to pay whatever tax payable in respect of these assets and profits. Should the proprietor die, the business will cease to exist.

B. Registration and Compliance

1. Registration under the Business Names Registration Act (2014)

14.2.3 There are no registration or compliance requirements specific to sole proprietorships where the proprietor does business under his own name as an individual or in the case of any company, where the company carries on business under its corporate name.

14.2.4 When, however, a person wishes to carry on business in Singapore as a sole proprietor using a business name, he or she must first apply to register the business name and comply with the requirements of the Business Names Registration Act (2014). This

may be done by completing and submitting the relevant forms electronically using [ACRA's e-filing portal, Bizfile](#). The documents may be filed personally online or at ACRA or with the help of a professional firm of lawyers, accountants, chartered secretaries or service bureau. Subsequently, the proprietor must comply with all the requirements set out under the Business Names Registration Act such as the filling of changes in particulars of the business name and its owner and registration renewals.

14.2.5 Where the proprietor of the business does not reside in Singapore, at least one authorised representative who is at least 18 years of age, of full legal capacity and is ordinarily resident in Singapore must be appointed. The authorised representative is personally responsible for the discharge of all obligations and is subject to the same responsibilities, liabilities and penalties provided for under the Business Names Registration Act as the proprietor.

C. Cessation of Sole-Proprietorship Business

14.2.6 A sole-proprietorship business will cease when the proprietor either dies or otherwise ceases to carry on business. The Business Names Registration Act requires any person registered under it who has ceased to carry on business to notify the Registrar of this. Failing to do so is an offence and may result in the imposition of a fine.

SECTION 3 PARTNERSHIPS

A. What is a Partnership?

14.3.1 A 'Partnership' (or 'general partnership') is formed where two or more persons carry on a business in common with a view to making profit. Generally, the maximum number of partners allowed in a partnership is 20. The partners can either be individuals or bodies corporate. Should more than 20 persons wish to carry on business together, they will have to do so through a Company (see [Section 5](#) below). This does not apply to partnerships formed solely or mainly for the purpose of carrying on any profession that is regulated by other legislation (eg law firms, accounting firms, medical practices).

14.3.2 A business partnership is also called a 'firm'.

1. Rights and liabilities in a Partnership

14.3.3 The law does not treat a partnership as a separate legal entity from its partners. The partners collectively own the assets of the partnership and are each individually liable for the debts and liabilities of the partnership. Each partner is personally liable for the full amount of debt owing by the partnership without any limit. Partners are taxed individually on their share of the partnership's profits.

2. Governing of the Partnership Act

14.3.4 General rules governing Partnerships may be found in the Partnership Act (Cap 391).

B. Formation of Partnerships

1. No formal steps necessary

14.3.5 There is no need to take any formal step to create a partnership. So long as there exists a relationship where two or more persons carry on business in common with a view to making profit, the law will recognise the existence of a partnership.

2. Statutory rules governing the existence of a partnership

14.3.6 Section 2 of the Partnership Act provides some rules in determining whether or not a partnership exists. It also has rules to assist in determining whether or not a person is a partner of a firm. The most significant of these rules is that the receipt of a share of profits in a business by a person is strong evidence that the person is a partner in the business.

3. Essentially there needs to be an agreement

14.3.7 In most situations, partnerships are created through a partnership agreement entered into by the partners in the business. The agreement may be made orally or in writing.

C. Relation of partners to each other

1. Elements typically found in a partnership agreement

14.3.8 The relationship between partners is governed by the partnership agreement. The main elements usually found in such an agreement include details of:

- How profits and liabilities of the firm should be shared amongst the partners;
- The responsibilities of the various partners for the running of the business;
- The obligations that the partners have to each other (eg to render proper accounts);
- How a partner may leave the firm; and
- How the residual assets of the firm should be distributed should the partnership be dissolved.

2. By default, the Partnership Act (Cap 391) will govern the agreement

14.3.9 Where there is no partnership agreement or where the agreement is not comprehensive, the relationship between partners is governed by the relevant provisions of the Partnership Act (Cap 391).

3. Each partner acts as agents of each other and of the firm

14.3.10 Partners are agents of each other and of the firm. A partner's acts in relation to the normal business operations of the firm will be treated as being the actions of the firm and all its partners. While the authority of any individual partner may be restricted by agreement, such a restriction will not affect an outside party dealing with the partner unless the restriction is known by that party or that party either does not know or believe that the person he is dealing with is a partner of the firm.

D. Liability of partners

14.3.11 Every partner (and if he dies, his estate) is liable for all debts and obligations of the firm that have been incurred while he is a partner of the firm. The firm and all its partners may also be sued for any wrongful act committed by any partner in the course of the business of the firm or with the authority of his co-partners.

E. Liability of non-partners for a Partnership's Debts

14.3.12 There are two situations where a person who is not a partner may be made liable for a partnership's debts. First, a retired partner who continues to appear to be a member of the firm may, in circumstances specified under section 36 of the Partnership Act (Cap 391), be treated as still being a partner by parties dealing with the firm. Such a person may be made liable for the debts of the firm until he has done the necessary to notify others of his retirement from the firm. Secondly, where any person either by words or by conduct represents himself or allows himself to be represented as a partner of a firm, he will be liable to any person who has given credit to the firm on the strength of the representation.

F. Registration and Compliance

14.3.13 Persons who wish to carry on business in Singapore through a partnership other than under the full names of all the individuals forming the partnership must register their business under the Business Names Registration Act. They must also subsequently comply with the requirements under the Act (see 14.2.4 to 14.2.6 above).

G. Dissolution of Partnerships

14.3.14 A partnership will automatically be dissolved should any partner die or leave the firm. The partnership agreement may also provide for other instances in which the partnership is to be dissolved. This may include situations where any one of the partners becomes bankrupt or becomes of unsound mind. It is also possible for an application to be made to the Court to have the partnership dissolved under circumstances specified in section 35 of the Partnership Act (Cap 391)

SECTION 4 LIMITED PARTNERSHIPS

A. What is a Limited Partnership?

14.4.1 The Limited Partnership ('LP') was introduced in 2009 and is the most recent business form to be introduced to Singapore. An LP is a business organisation that consists of one or more 'general partners' and one or more 'limited partners'.

14.4.2 LPs are in essence Partnerships (see section 3 above) and are created pursuant to an agreement between the partners ("the LP agreement"). They do not have a legal personality that is separate from their constituent partners. The Partnership Act as well as the general law applicable to Partnerships apply to LPs subject to the provisions of the Limited Partnerships Act 2008 (Cap 163B). The matters discussed above in relation to the formation of Partnerships and the relation of partners to each other (14.3.5 to 14.3.10) apply to LPs.

B. Limited Partners

1. Limited Partners not liable for debts or obligations of firm beyond agreed amount

14.4.3 The key difference between LPs and Partnerships lies in the fact that LPs have 'limited partners'. A limited partner is defined as any partner who, under the terms of the partnership agreement, shall not be liable for the debts or obligations of the firm beyond the amount of his agreed contribution. The limited partner is thus said to enjoy 'limited liability' status. Anyone who is not a limited partner of an LP is a general partner. General partners are regarded in exactly the same manner as partners in a Partnership and are liable for all the debts and obligations of the LP incurred while they are general partners.

2. Registration necessary under the Limited Partnership Act

14.4.4 Parties who wish to be limited partners in an LP have to register themselves as such under the Limited Partnership Act. Failing to do so will result in the limited partners being treated as if they were general partners of the LP thereby losing their limited liability status. Also, where a person deals with an LP after a partner becomes a limited partner, that person is entitled to treat that partner as a general partner of the LP until he has notice of the registration of that partner as a limited partner.

3. Limited Partners not to take part in management of the Limited Partnership

14.4.5 Limited partners should not take part in the management of the LP and should not have the power to bind the LP. Limited partners who take part in the management of the LP are liable for all debts and obligations of the limited partnership incurred while they so take part in the management as though they were general partners.

4. Limited partners may vary contributions

14.4.6 Subject to the LP agreement, limited partners may increase, reduce or draw out their contributions with the approval of the general partners.

5. When capital or profits distribution need to be refunded

14.4.7 Any distribution of capital or profits to the limited partners must be refunded if the following conditions are present:

- a. every general partner of the LP was insolvent at the time of the distribution or became insolvent as a result of the distribution;
- b. the limited partner knew or ought to have known at the time of the distribution that every general partner was insolvent or would become insolvent as a result of the distribution; and
- c. every general partner is adjudicated bankrupt or is ordered to be wound up within one year after the date of the distribution.

C. Formation of Limited Partnerships

14.4.8 LPs are formed in the same way as Partnerships (see 14.3.5 to 14.3.7 above).

D. Registration and Compliance

14.4.9 An LP may be registered under the Limited Partnership Act where it has limited partners that are registered as such under the Act. An LP is deemed to be a general partnership unless one or more persons are registered as limited partners of the firm in accordance with the Act.

1. Firm is treated as general partnership until reasonable notice of registration of LP

14.4.10 A Partnership can also be converted into an LP where one or more (but not all) of its partners register themselves as limited partners. The resulting LP formed must also register itself as an LP under the Limited Partnership Act. Where a person deals with a firm after it becomes an LP, that person is entitled to treat the firm as a general partnership until he has notice of the registration of that firm as an LP. He is also entitled to treat any person who was a partner of the firm as a general partner of the LP until he has notice of the registration of that person as a limited partner.

2. LP must comply with all the requirements set out under Limited Partnership Act

14.4.11 The registration of the LP is done through the lodging of prescribed documents by one of its general partners. Thereafter, the LP must comply with all the requirements set out under the Act such as the filing of changes in particulars of the LP, publication of its name and registration number on invoices and official documents and the keeping of proper accounts.

3. Properly-registered LPs are governed by Limited Partnership Act, not Business Names Registration Act

14.4.12 LPs registered under the Limited Partnership Act are not subject to the provisions of the Business Names Registration Act. Where the LP ceases to have any person named as its limited partner, its registration under the Limited Partnership Act will be suspended. Under such circumstances, the provisions of the Business Names Registration Act will apply to the LP.

4. Need for local representative to handle LP obligations

14.4.13 Where every general partner of an LP is ordinarily resident outside Singapore, the Registrar may require a local manager to be appointed to be responsible for the discharge of all obligations attaching to the LP as prescribed by the Limited Partnership Act.

E. Dissolution of Limited Partnerships

14.4.14 The dissolution of LPs is similar to that for Partnerships (see [14.3.14](#) above). There are, however, some differences which relate to limited partners. For example, limited partners are not entitled to dissolve the LP by notice. Also, an LP is dissolved on the death, dissolution, bankruptcy or liquidation of a limited partner.

14.4.15 In the event of the dissolution of an LP, its affairs are to be wound up by the general partners unless there is a court order to the contrary.

SECTION 5 LIMITED LIABILITY PARTNERSHIPS

A. What is a Limited Liability Partnership?

1. General partnership law does not apply to LLPs

14.5.1 A Limited Liability Partnership ('LLP') is a business organisation comprising two or more persons associated for carrying on a lawful business with a view to profit that is registered as such under the Limited Liability Partnerships Act 2005 (Cap 163A). Despite its name, it is not regarded as a partnership and general partnership law does not apply to LLPs.

2. LLPs has its own separate legal personality

14.5.2 The LLP is a body corporate that has a separate legal personality. It can sue, be sued and own property in its own name. The LLP is liable for its own debts and the partners and managers of the LLP cannot be made liable for such debts. Each of the partners are assessed and taxed individually on their respective share of the profits in the LLP.

3. Every partner is agent of LLP but LLP not bound by unauthorized acts of partners

14.5.3 Every partner of the LLP is regarded as an agent of the LLP. However, the LLP is not bound by the acts of a partner which are not authorised where either this fact is known to the person dealing with the partner or the person does not know or believe the partner to be a partner in the LLP.

B. Formation of a Limited Liability Partnership

It must have a minimum of two partners. There is no limit on the number of partners that an LLP may have (see [Paragraph 14.3.1](#) above). The partners can either be individuals or corporations.

C. Relation of partners to each other

1. Relationship governed by LLP agreement

14.5.5 The relationships amongst partners in an LLP are governed by the limited liability partnership agreement. Matters not covered by the LLP agreement are governed by the provisions of the First Schedule of the Limited Liability Partnership Act.

2. Methods through which one can cease being member of LLP

14.5.6 A partner in an LLP can cease to be a member of the LLP in accordance with the LLP agreement or, where there is no agreement on the matter, by giving 30 days' notice to the other members of his intention to leave the partnership. A partner will also cease to be a partner in an LLP upon death or dissolution. In such an event, the LLP is required to pay to the former partner (or his legal representative or its liquidator) an amount equal to the former partner's capital contribution to the LLP and the former partner's share in the accumulated profits of the LLP. The amount is determined as at the date the former partner ceased to be a partner.

D. Registration and Compliance

1. Compliance with the Limited Liability Partnership Act

14.5.7 Upon registration, LLPs must comply with the provisions of the Limited Liability Partnership Act and any Rules made under the Act. This includes:

- annual filing of a declaration of solvency or insolvency;
- keeping of proper accounts to be made available for inspection by the authorities when required;
- having a registered office to which all communications and notices may be addressed; and
- publication of its business name, registration number and limited liability status on its invoices and official correspondences. If the LLP is not carrying on business under its registered name, it must also comply with the provisions of the Business Names Registration Act.

2. Ensure at least one manager of full age and capacity. Manager need not be partner

14.5.8 All LLPs must have at least one manager who is a natural person and who is of full age and capacity. Such a manager must also be ordinarily resident in Singapore. Managers are persons who are concerned in or who take part in the management of the LLP. They need not be a partner of the LLP.

3. Manager will be held responsible for non-compliance of the Act

14.5.9 The manager is the person who will be held responsible should the LLP fail to comply with the requirements of the Limited Liability Partnership Act pertaining to:

- The filing of a declaration of solvency under section 24 of the Act;
- The publication of the LLP's name, registration number and limited liability status on its invoices and correspondence;
- and The registration of any change in particulars of the LLP

4. Disqualification from acting as Manager of LLP

14.5.10 The following persons are disqualified from acting as a manager of an LLP:

- Undischarged bankrupts (unless they get permission from the High Court or the Official Assignee);
- Persons who are under disqualification from so acting pursuant to an order by the High Court because of their previous role in managing LLPs which have become insolvent or which were wound up on grounds of national security; Persons who have
- been convicted of specified offences; and
- Persons who are disqualified from acting as directors or from being involved in the management of companies under the Companies Act (cap 50).

5. LLP must have Singapore-registered office

14.5.11 An LLP will need to have a registered office in Singapore to which all notices and correspondence may be sent.

E. Winding-Up

1. Ways of dissolving an LLP

14.5.12 An LLP will continue to exist until it is dissolved. Dissolution often takes place after a process called 'winding-up' has been completed. The winding-up may be effected voluntarily upon the resolution of its partners. Alternatively, it may be effected following a Court order being made upon the successful application of the LLP itself, any of its partners (or persons representing their estates), any creditor, the liquidator or the Minister for Finance. The grounds on which an application for an order for the winding up of an LLP and the procedures relating to both voluntary and Court-ordered winding up of LLPs may be found in the Fifth Schedule of the Limited Liability Partnership Act.

2. Assets management after dissolution

14.5.13 During the winding-up, the assets of the LLP will be called in by the liquidator and realised. The money collected will be used to first pay off all the debts of the LLP. Any amounts remaining will be distributed to the partners of the LLP in accordance with the LLP agreement.

SECTION 6 COMPANIES (note - for a detailed discussion of the law relating to Companies, please see Chapter 16)

A. What is a Company?

14.6.1 A Company is an entity that is registered under the Companies Act (Cap 50). It has its own legal personality that is distinct from its members and the persons who manage the company. Companies can therefore own property and sue or be sued in their own names. They are recognised as taxable entities in their own right.

B. Types of Companies

14.6.2 The Companies Act (Cap 50) contemplates different types of companies (see [Diagram](#)). Companies may be classified according to whether they are "private" or "public" as well as according to their members' liability. They may also be classified as "small companies" or part of a "small group"

C. Companies classified according to private, exempt or public status

1. Private Companies

14.6.3 A private company is one whose constitution:

- restricts the right of its members to transfer their shares in the company; and limits
- the number of members that the company can have to not more than 50.

The restriction on the right to transfer shares in a private company usually takes the form of a requirement that the transfer be first approved by the company's board of directors or a requirement that the shares be first offered to be transferred to existing shareholders.

2. Exempt Private Companies

14.6.4 A private company in the shares of which no beneficial interest is held directly or indirectly by any corporation and which has not more than 20 members is regarded as an "exempt private company". Such companies are exempted from some of the provisions

of the Companies Act (Cap 50). For example, an exempt private company is exempted from prohibitions against loans to its directors or to companies related to its directors under sections 162 and 163 of the Act. If an exempt private company is solvent, it need not attach its accounts to its annual returns when filing these with ACRA but can simply complete an online declaration of solvency instead.

3. Public Companies

14.6.5 Any company that is not a private company is a public company. Public companies may or may not be listed on a stock exchange. Where they are so listed, they are usually referred to as “listed companies” and have to comply with the rules and regulations of the stock exchange on which they are listed.

D. Companies classified according to members’ liability

14.6.6 The majority of companies (whether private or public) are companies that are “limited by shares”. This means that they are formed on the principle that the liability of their members are limited to the amount, if any, unpaid on the shares that the members respectively hold. A public company can be “limited by guarantee”. Such companies are formed on the principle of having the liability of their members limited to the respective amounts that the members guarantee to contribute to the property of the company if it is wound up. Finally, private or public companies can be set up as “unlimited companies”. Here, there is no limit placed on the liability of the company’s members for the debts of the company.

14.6.7 Companies limited by shares are the most appropriate form of company for the conduct of business activities, and consequently the most commonly used for business. As such, the discussion below will focus primarily on such companies.

E. “Small Companies” and “Small Groups”

14.6.8 The concepts of a “small company” and “small group” were recently introduced by the Companies (Amendment) Act 2014. Small companies are exempt from audit requirements. Small companies which are either holding companies or subsidiaries will, however only qualify for such an exemption if the corporate group to which they belong is regarded as a “small group”.

14.6.9 A company is a small company from a financial year if —

- a. it is a private company throughout the financial year; and
- b. it satisfies any 2 of the following criteria for each of the 2 financial years immediately preceding the financial year:
 - i. the revenue of the company for each financial year does not exceed \$10 million;
 - ii. the value of the company’s total assets at the end of each financial year does not exceed \$10 million;
 - iii. it has at the end of each financial year not more than 50 employees.

14.6.10 A company ceases to be a small company if it ceases to be a private company during the financial year in question or if it does not satisfy any 2 of the three criteria listed in (b)(i) to (iii) above for 2 consecutive financial years immediately preceding the financial year in question.

F. Formation of Companies

14.6.11 A company comes into existence upon registration under the Companies Act (Cap 50). It can have a minimum of 1 member. Theoretically, there is no limit to the number of members that a company can have. The members can be individuals or corporations.

G. Governance Structure

14.6.12 The governance structure of a company and the interrelationship between the company, its members and its managers is governed by the company's constitution as well as by the provisions of the Companies Act. It is also not uncommon to find the members of companies (usually in joint venture arrangements) entering into 'shareholder agreements' as amongst themselves to capture some of their key rights and obligations in relation to how the company is to be structured and managed.

H. Members / Shareholders

1. Methods of becoming a member

14.6.13 A person can become a member either by subscribing for shares in the company or by purchasing the company's shares from another person. The key rights and obligations of the members in relation to each other and to the company may be found in the Companies Act, in the company's constitution as well as under the terms of issue relating to the shares which the members hold. Members of a company are commonly referred to as 'shareholders'.

2. Rights of a member

14.6.14 The main rights that members have include:

- The right to be given notice of and to attend and participate in general meetings of members;
 - The right to be treated fairly and to have the provisions of the company's constitution complied with;
 - The right to make some key decisions in relation to the company through the general meeting (these include matters such as the appointment and removal of directors and auditors of the company; the issue of shares and the amendment of the company's constitution);
 - The right to a share of declared dividends (dividends can only be declared out of available profits); and
 - The right to have the company wound up in specified circumstances and to share in the residual assets of the company.

14.6.15 Members are not liable for the debts of the company.

I. Directors

14.6.16 The responsibility for managing a company generally lies with the company's Board of Directors ("the Board"). The members of the Board may also be members and / or employees of the company. In larger companies, however, it is common for some of the Board members not to be employees of the company. Board members have onerous duties towards the company. These include the duty to act honestly, the duty to act with reasonable care, skill and diligence in the conduct of the company's affairs and the duty to act in the best interests of the company generally.

J. Registration and Compliance

1. Ensure compliance with Companies Act and Business Names Registration Act

14.6.17 Upon registration, companies must comply with the regulatory provisions of the Companies Act and any Rules made under the Act. If the company is not carrying on business under its registered name, it must also comply with the provisions of the Business Names Registration Act.

2. Pre-requisites of Director position

14.6.18 All companies must have at least one director who is ordinarily resident in Singapore. Only individuals who have attained the age of 18 years and who are otherwise of full legal capacity may be appointed as a company's director. The following persons are disqualified from acting as company directors:

- Undischarged bankrupts (unless they get permission from the High Court or the Official Assignee);
- Persons who are under disqualification orders made by the Court;
- Persons convicted of specified offences or offences involving fraud or dishonesty punishable with imprisonment for three months or more. (The disqualification is for five years from the date of conviction of the relevant offence, or, where the person has been sent to prison, from the date of release);
 - Persons convicted of certain offences or subject to the imposition of a civil penalty under the Securities and Futures Act (cap 289);
 - Persons who have been a director of not less than three companies which have been struck off the companies register within a period of five years
 - Persons against whom a debarment order has been made by the Registrar of Companies;
 - Persons who are disqualified from acting as manager of a limited liability partnership under the Limited Liability Partnership Act (Cap 163A).

3. Requirement for registered office and company secretary

14.6.19 Companies must also have a registered office to which all notices and official documents may be sent and at which the company is to keep the various registers that it is required to maintain under the law. Companies must also appoint a competent Company Secretary whose main responsibility is to ensure administrative and regulatory compliance.

I. Winding-Up

1. Ways of dissolving a company

14.6.20 A company will continue to exist until it is dissolved. Dissolution often takes place after a process called 'winding-up' has been completed. Winding-up can take place voluntarily upon an appropriate resolution being passed by the company's members. Alternatively, it can take place by an order of Court upon the successful petition of the company, a creditor, a contributory, a liquidator or a judicial manager of the company.

2. Management of assets after dissolution

14.6.21 During the winding-up, a liquidator will be appointed. The liquidator's role is to collect and realise the assets of the company. Generally speaking, the money collected will be used to first pay off all the debts of the company, and any amounts remaining will be distributed to the shareholders of the company.

14.6.22 Once the winding-up is concluded, steps can be taken to dissolve the company and have it de-registered.

SECTION 7 BUSINESS TRUSTS

A. What is a 'Business Trust'?

1. Definition of a 'trust'

14.7.1 A 'trust' may be described as an arrangement where a person (called the 'trustee') holds property for the benefit of others (called 'beneficiaries'). A Business Trust is a trust that operates and runs a business enterprise. It is not a separate entity in that the trustee of the business trust is regarded as the legal owner of the assets in the trust. Under the general law of trust, the beneficiaries of the trust are liable for the legal obligations of the trust.

2. Tax obligations in a 'Business Trust'

14.7.2 A business trust can distribute its operating cash flows to its beneficiaries. Depending on the circumstances and how the trust is structured, tax may be payable either on profits made by the trust or by the beneficiaries on their respective shares in the profit under the trust.

B. Creation of Business Trusts

1. Existence of 'trust deed'

14.7.3 Business trusts are usually created under a document called a 'trust deed'. Among other things, the trust deed will:

- define the property and the purpose of the trust, and in the case of a business trust, the business to be carried out under the trust;
- the duties of the trustee;
- the entitlements of the trust's beneficiaries.

2. Governed by Trustees Act and general law of trusts

14.7.4 Trusts are governed by the general law of trusts and by the provisions in the Trustees Act (Cap 337).

C. Registered Business Trusts

14.7.5 It is possible for a business trust to be registered under the Business Trusts Act (Cap 31) if the business trust fulfils certain criteria. The purpose of the Business Trusts Act is to put into place a framework to regulate business trusts that wish to raise funds from the general public.

1. Appointment of trustee-manager to manage trust business.

14.7.6 Registered business trusts must have a trustee-manager whose role is to safeguard the interests of beneficiaries (referred to as 'unitholders' under the Business Trusts Act) of the trust and to manage the business of the trust. The trustee-manager must be a Singapore registered company, which is not an exempt private company, whose sole business is the management and operation of the trust. The duties and responsibilities of the trustee-manager are set out under the Business Trusts Act. The Trustees Act does not apply to registered business trusts.

2. Rights of unitholders

14.7.7 Unitholders in registered business trusts are also given certain rights, some of which may not be available under general trust law. These include:

- limited liability
- the right to remove and replace the trustee-manager;
- the right to fair treatment;
- the right to bring a representative or derivative action on behalf of the trust.

3. Tax rules apply as per normal

14.7.8 Although a registered business trust is not a separate entity, it is taxed as such. Unitholders are not taxed on the sums received as distributions from the registered business trust.

D. Termination or Winding-up of the Business Trust

1. Ways of winding-up a Business Trust

14.7.9 Generally, business trusts may be terminated pursuant to the provisions in the trust deed. Notwithstanding the provisions of the trust deed, however, the unitholders of registered business trusts can direct the trust's trustee-manager to wind up the trust by passing a special resolution to that effect. In addition, the Business Trusts Act allows the trust to be wound up by the Court on the petition of the trustee-manager, a director of the trustee-manager, a unitholder or a creditor of the business trust.

2. Assets management after winding-up

14.7.10 Upon winding up, the assets in the business trust are to be applied in accordance with the trust deed.

Forms of Business Organisations - Comparative Table

	Sole Proprietorship	Partnership	Partnership	Partnership	Limited Liability Partnership	Company	Business Trust	Business Trust	
Owner(s) of	Sole Proprietor.	Partners.	Partners.	Partners.	(partners have a share in the	shareholders own 'shares' in the	Trustee (on trust for	Trustee-manager (on trust for	
Legal Status	Not a separate legal entity.	Not a separate legal entity.	Not a separate legal entity.	Not a separate legal entity.	Separate legal entity.	Separate legal entity.	Not a separate legal entity.	Not a separate legal entity.	
Party that is liable for debts of the business	Sole Proprietor.	Partners.	General Partners (fully); Limited Partners (up to agreed contribution).	General Partners (fully); Limited Partners (up to agreed contribution).	Limited Liability Partnership.	Company.	Trustee or manager (may draw from assets under the trust).	Trustee-manager (may draw from assets under the trust).	
Responsibility for management of business	Sole Proprietor.	Partners.	General Partners.	General Partners.	Partners.	Board of Directors.	Trustee or manager appointed by trustee.	Trustee-manager.	
Comparative Regulatory / administrative compliance requirements.	Minimal.	Minimal.	Low.	Low.	Low.	Low to high depending on size and whether it is listed.	Low to medium depending on requirements in trust deed.	Medium to High depending on profile of unitholders (eg whether retail or institutional).	
	Only	from	Only	from	Only	from	Can access capital	Limited to amount placed in	Can access capital

Forms of Business Organisations, Singapore

	Proprietorship	Partnership	Limited Partnership	Private Limited Company	Public Limited Company	Trust
Access to finance	Proprietor's personal investment and borrowings.	Partners' personal investments and borrowings (maximum 20 partners).	Partners' personal investments and borrowings.	Partners' personal investments and borrowings.	Shareholders' investments and borrowings.	Trustee's investments and borrowings. No access to retail investors in capital market.
Returns	Proprietor entitled to full profits from business.	Partners share of profits.	Partners share of profits.	Partners share of profits.	Shareholders entitled to share of dividends.	Beneficiaries entitled to share of distributions.
Taxation	No tax paid by business.	No tax paid by partnership. Personal tax paid by proprietor.	No tax paid by partnership. Personal tax paid on share of profits by partners.	No tax paid by business. Corporate tax paid on accounting profits. Dividends paid to shareholders.	No tax paid by business. Corporate tax paid on accounting profits. Dividends paid to shareholders.	Tax paid by trustee on income generated by trust at corporate tax rate. Distributions received by unitholders exempted from tax.

Types of Companies Contemplated By The Companies Act (Cap 50)

