

# **Understanding Multi-Level Marketing**

## **A Legal Perspective**

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**Presented by**

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# Relevant Singapore Laws

- Multi-level Marketing (“MLM”) and Pyramid Selling (Prohibition) Act (“Act”)
  - Chapter 190, 1973
- MLM and Pyramid Selling (Prohibition) (Amendment) Act 2000 (“Amendment Act”)
- MLM (Excluded Schemes and Arrangements) Order 2000 (“Order 2000”)
- MLM (Excluded Schemes and Arrangements) Order 2001 (“Order 2001”)

# MLM Act Cap 190



- No distinction made in the Act between
  - MLM Scheme
  - Pyramid Scheme
- Focus is on objectionable attributes and structures
- These prohibited structures popularly called 'Pyramid Schemes'

# MLM Amendment Act

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- With effect 1 June 2000
- To be read with Order 2000
- Order 2000 has been amended by Order 2001 effective 1 January 2002
- New definition of 'Pyramid Selling Scheme/Arrangement'

# MLM Act Cap 190



- Unlawful to
  - Promote
  - Participate
  - Hold out that he is
    - ⇒ promoting
    - ⇒ participating
- In a
  - MLM Scheme/Arrangement
  - Pyramid Scheme/Arrangement

# MLM Amendment Act



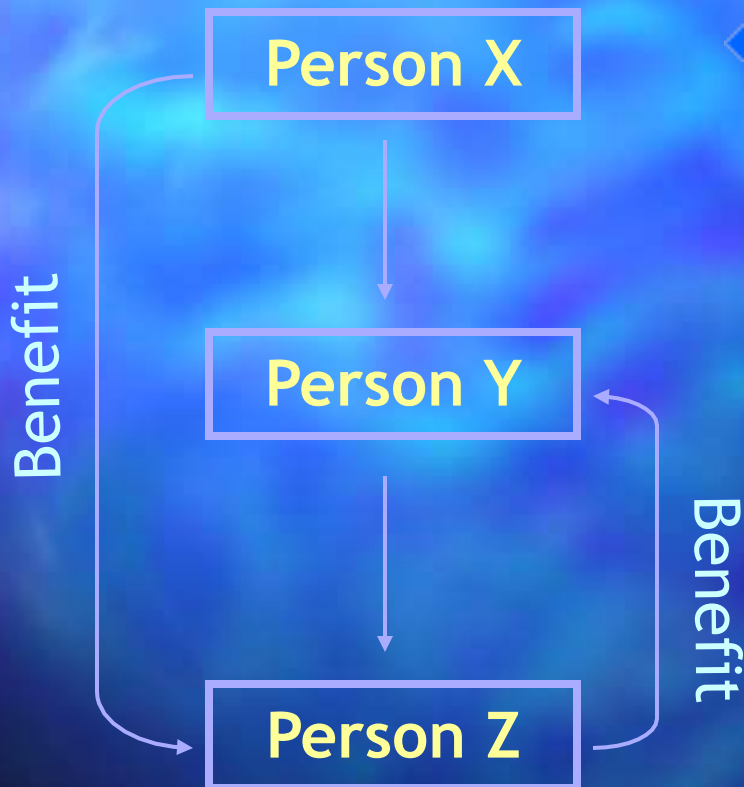
- “Any scheme or arrangement for the distribution or the purported distribution of a commodity whereby -
  - a) A person may in any manner acquire a commodity or a right or a licence to acquire the commodity for sale, lease, licence or other distribution;
  - b) That person receives any benefit, directly or indirectly, as a result of -
    - The recruitment, acquisition, action or performance of one or more additional participants in the scheme or arrangement; or

# MLM Amendment Act



- The sale, lease, licence or other distribution of the commodity by one or more additional participants in the scheme or arrangement; and
- c) Any benefit is or may be received by any other person who promotes, or participates in, the scheme or arrangement (other than a person referred to in paragraph (a) or an additional participant referred to in paragraph (b))”

# MLM Amendment Act



## ◆ Prohibits

- Person Y receiving benefit for either
  - recruiting person Z;
  - or
  - on sales of person Z

IF

Person X also receives benefit as a result



# MLM Amendment Act

## ■ Penalties

- Criminal ⇒ imprisonment up to 5 years
- Civil ⇒ fine up to S\$200,000.00

## ■ If company commits offence

- Officer of company liable

# Order 2001



- Provides which structures are permissible
- Persons should ensure
  - schemes involved in
  - personal actionscomply with these requirements
- 8 requirements must be satisfied to be permissible

# Order 2001



**1. No payment or purchase required to participate other than sales demonstration materials at price not exceeding cost**

➤ no joining fee or compulsory purchase except for sales demonstration materials

⇒ at price not exceeding cost

⇒ not for resale

⇒ no commissions paid to any other person

# Order 2001



2. Benefits accrue as a result of :-

(a) the sale of a commodity to any other person;  
or

(b) the performance of one or more participants in relation to the sale of a commodity to any other person;



# Order 2001



3. Subject to 2, no benefits shall be received by any person as a result of recruitment



# Order 2001

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**4. No representation that benefits accrue other than as a result of the sale of a commodity**

- no representation that distributors will get paid for recruiting others

# Order 2001



## 5. Any representation relating to the accrual of benefits must be supported by audited records

➤ promoters must keep fair and accurate records of

- a) minimum
- b) median
- c) average
- d) maximum
- e) mode

benefits that have accrued to the promoter and participants audited by an auditor for each financial year

# Order 2001



6. Companies and participants must not and must take steps to ensure that other do not
  - (a) make false or misleading representations
  - (b) omit material particulars
  - (c) engage in misleading conduct
  - (d) use fraud, coercion, harassment, or unconscionable or unlawful means to promote the scheme or commodity



# Order 2001

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7. 60 day full refund/buy-back guarantee for participants on reasonable commercial terms
  - full refund or buy-back not just exchange
  - exercisable by participants
  - minimum 60 day period
  - reasonable commercial terms can be imposed

# Order 2001

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## 8. Participants to be informed of guarantee at time of distribution of commodity

- Details as to the guarantee to be included in invoice etc. at time of delivery of commodity

# MLM Act Cap 190



“The purpose of the Act is to prohibit the objectionable features of pyramid selling. These are schemes where participants are required to pay a lump sum upfront to join, but the driving force to recoup their upfront payment is the recruitment of more and more members, as opposed to the selling of more and more goods and services”

- *the Minister of State for Trade and Industry,  
Mr Lim Swee Say*

# Other Relevant Singapore Laws



- Consumer Protection (Fair Trading) Act 2003
- Consumer Protection (Fair Trading) (Cancellation of Contracts) Regulations 2003

# Fair Trading Act and Regulations



- With effect 1 March 2004
- Focus is to protect consumers who lack expertise or resources to protect themselves against unfair practices
- Applicable if:-
  - Supplier or consumer is resident in Singapore
  - Offer or acceptance relating to consumer transaction is made in or sent from Singapore

# Fair Trading Act and Regulations



- Under the Regulations, a consumer has a right to cancel a direct sales contract within 3 days (excluding Saturdays, Sundays and public holidays) after:-
  - The day on which consumer entered into contract; or
  - If the consumer information notice has not been brought to the attention of consumer before or at the time consumer entered into contract, the day on which such notice was subsequently brought to his attention

# Fair Trading Act and Regulations



- Direct sales contract: Consumer transaction entered into during an unsolicited visit by supplier to the place of residence of consumer or other person or place of business of consumer
- Regulations applicable in context of MLM companies if:
  - Distributor had acted as employee or agent of MLM company in sale of goods to end-consumer
  - Resulting contract between end-consumer and MLM company constitutes a direct sales contract



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**THE END**