

Financial Regulation and Taxation of Religion in Singapore*

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ABSTRACT: Regulation in Singapore is primarily “religion-blind”. In other words, most laws are passed without specific reference to religions. The Maintenance of Religious Harmony Act, for example, is one of laws that cover all religions without distinction. However, the scandal of the National Kidney Foundation (NKF) in July 2005 shows that it is necessary for the State to issue laws to regulate financial governance of organizations that collect money from the public, to protect the members of the public. The author suggests that where these rules are formulated, they should not be targeted in word or in practice against religious organizations only.

Introduction

Singapore is a multi-racial, multi-lingual, multi-religious country. Its population of about 4.68 million people is made up of 77% Chinese, 14% Malays, 8% Indians and other persons of South Asian origin and 1% of other ethnic minorities such as Eurasians, Arabs, Portuguese, Parsis and Jews¹. There are also 1 million foreigners of various nationalities in Singapore – with large numbers of Americans, British, Australians, Japanese, Indonesians, Malaysians, Filipinos, Indians, Chinese, Koreans and increasingly, even Africans. The religions among these groups are diverse and include Buddhism, Christianity, Chinese folk religion, Islam, Hinduism and various other minority and emerging religions.²

Regulation in Singapore is primarily “religion-blind”: in other words, most laws are passed without specific reference to religions. For example, registration rules apply to all entities in Singapore whether formed for business, social, religious, charitable or commercial reasons³. Allocation of land in public housing estates to religions other than Islam is mainly through competitive bidding. There are no special judicial or

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prosecutorial structures created for religion, with the sole exception of “Syariah⁴ Courts” for the administration of personal law⁵ for Muslims. Most laws that do cover religion, such as the Maintenance of Religious Harmony Act, Chapter 167A Singapore Statutes, apply to all religions without distinction. Very few relate solely to specific religions, such as the Administration of Muslim Law Act, Chapter 3, Singapore Statutes; or the Roman Catholic Archbishop Act⁶, Chapter 375, Singapore Statutes.

1. Problems Caused by Poor Financial Governance

In July 2005, the National Kidney Foundation (NKF) scandal broke into the news⁷. The NKF was a non-religious charity which was formed to help kidney patients, amongst other things, to get low-cost dialysis. The Chief Executive Officer of this organization was found to have abused his power. He allegedly furnished his office opulently, paid himself excessively, gave himself handsome benefits as an employee and ran the charity like his own business. Allegedly, he even used NKF funds to pay benefits for his wife who was not connected to the NKF.

Millions of dollars were raised from the public for NKF patients, but it was found that very little of this money went to the patients. There were also dodgy accounting practices and lucrative contracts given to the cronies of the Chief Executive Officer. Some contracts of the NKF were also routed to companies formed by the Chief Executive officer, resulting in the Chief Executive profiting personally and secretly from the funds of the NKF.

The NKF Chief Executive Officer was not a member of the Board of Directors of the NKF. It was found, however, that he acted as if he was a director. He had the final say in everything that went on in the organization, and no one asked questions – least of all the Board of Directors which was supposed to perform that task.

The scandal led to prosecutions of key NKF officers and the directors. This, and other charity scandals⁸ which coincidentally erupted one after another over the next two years in Singapore, led to a round of new laws on charity governance, much as the Enron scandals led to the promulgation of the Sarbanes-Oxley corporate governance reforms in America.

Religious organizations are considered “charities” in Singapore⁹. As charities, they are governed by all laws which affect charities. The financial governance reforms which were introduced as a result of the NKF scandal therefore applied without exception to all charities, religious organizations not excepted.

2. Purposes of Taxation and Its Connection to Religion

Governments perform services for the citizens they govern. Such services are usually funded by taxation of individual and corporate incomes. Taxation (and excise duties) may also be imposed on imports and exports, goods and services sold to consumers; property transactions and estates of deceased persons.

Sometimes, taxation, duties and levies are used to effect desired social values. In Singapore, such duties and levies include high taxes on cigarettes, liquor and cars¹⁰; and levies on the import of foreign labour to prevent over-reliance by Singaporeans on unskilled migrant workers.

Occasionally, because of the effectiveness of monetary measures for social engineering purposes, governments are tempted to use taxes and levies to control the growth or practice of religion. Such taxation could be blatantly directed at religions specifically, or couched in terms which appear to tax activities not connected to religion (but which in reality affect only religions¹¹).

In some countries where the State supports a particular religion, the tax collection machinery of the State could be used to collect taxes from all citizens or residents (perhaps irrespective of their actual, or lack of, religious belief) to fund the activities of the supported religion.

3. Laws on Financial Governance and Taxation in Singapore

As mentioned above, Singapore does not have any financial or taxation statutes which are directed only at religions, whether directly or indirectly. All laws in Singapore are in any case sent to the Presidential Council for the Protection of Minorities, to ensure that they do not unfairly target any minority race. Any discriminatory laws identified by this Council will be vetoed by the President and will not become law.

In 1987, to prevent the rise of racial and inter-religious tension due to the indiscrete or unacceptable behaviour of certain religious practitioners towards other religions, the Singapore Parliament passed the Religious Harmony Act. Under this Act, the government could, among other actions, issue executive orders to stop religions from instigating or creating religious disharmony or insult by their actions or practices. Laws which may affect religions are also sent by the Minister of Law to the Council for Religious Harmony for vetting, and those which affect religious harmony will not be passed. This Act has been applied to all religions.

On occasion, the Sedition Act, Chapter 290, Singapore Statutes, has also been applied to stop behaviour which can incite religious disharmony. This Act has been applied alike against racists, religious bigots and politicians¹².

The machinery of the State is used to collect money from Muslims to build mosques for Muslims, but this is done at the specific request of the Muslim community and the money is collected only from Muslims. The money so collected is administered by the Islamic Council of Singapore (the Majlis Ugama Islam Singapura, or MUIS), the governing authority of Islam in Singapore (composed not merely of government officials but of the practitioners of the religion itself).

The Charities Act, Chapter 37, Singapore Statutes, govern all charities - which, as stated above, includes religions in Singapore other than Islam (this is regulated by MUIS and the Administration of Muslim Law Act, Chapter 3, Singapore Statutes, which lays down its own governance rules) and religions such as Roman Catholicism and the Anglican branch of Christianity¹³. Several pieces of subsidiary legislation have been released under the ambit of the Charities Act, and these include: the Charities (Institutions of Public Character) Regulations 2007; the Charities (Fund-raising Appeals) Regulations, 2007; the Charities (Large Charities) Regulations 2007; the Charities (Registration of Charities) Regulations 2007; the Charities (Annual Reports) Regulations, 1995; the Charities (Annual Statement of Accounts) Regulations 1995; and the Charities (Fund-raising Appeals For Foreign Charitable Purposes) Regulations 1995¹⁴.

Singapore societies¹⁵ and charities are taxed if half or more of their income do not come from their members¹⁶. If the income from non-members is largely spent within a year of the income accrual¹⁷ (not counting income which is not spent but channeled into funds which will be sent in the future, such as sinking, or building maintenance funds), there is no tax. A charitable organization, which is formed entirely for charitable purposes only¹⁸, will pay no tax¹⁹.

Some charities are given the status of "Institution of Public Character (IPC)". Donors who give to such charities may make income tax deductions from their own tax returns, resulting in their paying less tax. IPCs may be operated by religious organizations so long as they are not used exclusively for religious rites or do not bestow benefits only on sectors of the public identified by race, belief or religion. Examples of such IPCs are social services (such as homes for the mentally disabled or the aged, hospitals and schools) run by religious bodies²⁰.

Besides the seven pieces of subsidiary legislation which govern the financial affairs of charities, a voluntary Code of Conduct has also been introduced for charities: with three levels of standards – a basic level for all charities, one for IPCs and large charities²¹ and one for large IPCs. These laws and Codes have been introduced to prevent the recurrence of the scandals that plagued Singapore in 2005. The key details of the Charities Act, Chapter 37, Singapore Statutes, the subsidiary legislation and Code of Governance for Charities (the Code) are discussed below.

1. The Charities Act, Cap 37

Under the Act, a Commissioner of Charities²² is appointed with the objectives of maintaining public trust and confidence in charities; promoting compliance by charity trustees²³ with their legal obligations in respect of their charities; to promote the effective use of charitable resources and to enhance the accountability of charities to donors, beneficiaries and the general public²⁴. The Act also sets up a Charity Council to advise the Commissioner and to promote self-regulation in the charities sector.²⁵ The Commissioner has the power to register and remove charities from the register and to regulate them. His powers of regulation include the power to investigate and enforce compliance with the Act.

Charities are obliged to supply the Commissioner with records, reports, documents and information he needs²⁶. In particular, they are to submit annual reports²⁷ and annual statements of accounts²⁸ to the Commissioner within 6 months of the end of the financial year²⁹. Charity trustees are obliged to keep the accounts (and other records) of charities for at least 5 years, and if the charity no longer exists, the last trustees of the charity have this obligation³⁰. For the purposes of transparency, the annual reports and audited accounts of the charity are open to public inspection. The charity may, however, charge a reasonable fee for the inspection³¹.

Other provisions of the Act deal with the powers of the charity's trustees and the Commissioner in respect of the properties of the charity³², disqualifications of the charity trustees (for example, they cannot be bankrupts or persons convicted of crimes of deception or dishonesty),³³ and rules in respect of fund-raising.³⁴

The stringent rules on fund-raising have been introduced as a direct result of the NKF saga. The NKF raised tens of millions of dollars a year even though they had hundreds of millions in their reserves; engaged professional fund-raisers who got a big cut of the money raised without this being revealed to donors; paid employees salaries which were tied to the amount they raised for the NKF; used creative accounting to mask the fact that more than 30% of the funds raised were for expenses³⁵; and other

abuses. Amongst other new provisions, it is now an offence for professional fund-raisers or commercial operations to raise funds for charities without a prior agreement from the charity engaging them;³⁶ The subsidiary legislation and the Code lays down further rules which are detailed below.

2. *The Charities (Institutions of Public Character) Regulations 2007*

As these regulations do not generally apply to religious organizations in Singapore, we will not deal with them in any detail here. This set of Regulations is of interest here only because it is here that we find the rules limiting the amount charities may spend on fund-raising expenses³⁷; the definition of “large institutions of public character” and the concept that additional standards are to be imposed on them³⁸; and the need to declare to the public the uses for which their donations are used³⁹. These concepts will be raised again in the next set of Regulations and the Code dealt with below.

3. *The Charities (Fund-raising Appeal) Regulations, 2007*

The rules here do not apply to IPCs. Hence, some of the rules which apply to IPCs under the Charities (Institutions of Public Character) Regulations 2007 are also stated here. These include the 30% limit for expenses in fund-raising;⁴⁰ restrictions on the use of “commercial fund-raisers;”⁴¹ how the donations are to be used;⁴² the duty to maintain records⁴³; and additional audit and control requirements for raising amounts above S\$1 million⁴⁴.

4. *The Charities (Large Charities) Regulations 2007*⁴⁵

Large charities are charities where the gross annual receipts in each of the two preceding financial years are not less than S\$10 million⁴⁶. Such large charities must have at least 10 trustees.⁴⁷ Financial statements of large religious charities have to be audited by an auditor approved by the Commissioner. These auditors have to be changed at least once in five years.

5. *The Charities (Registration of Charities) Regulations 2007*

Organizations are registrable as charities if their purposes are exclusively charitable; they have a minimum of three trustees; and their purposes are beneficial wholly or substantially to the community in Singapore. If a religious organization cannot fulfill these conditions, it will not be registered as a charity. Non-registration as a charity only means that it may not qualify for the tax benefits available to charities. Non-registration does not affect their need to register under other laws applicable to them⁴⁸ (such as registration as a society or as a company limited by guarantee).⁴⁹ Neither does non-

registration as a charity make them an illegal religious organization. Further, charities must report changes to their Constitutions within 7 days⁵⁰.

6. *The Charities (Annual Report) Regulations, 1995*

These Regulations lay down the items that need to be reported annually by a charity. The report must contain: a description of the instrument setting up the charity⁵¹; the charity registration number; the registered address of the charity; the names of the charity trustees and their dates of appointment; the names, designations and dates of appointment of the members of the management committee⁵²; and the names of the bankers, lawyers, auditors, investment advisers or other advisers of the charity. Additionally, the charity trustees must prepare a report containing: an explanation of the objectives of the charity, how it is organized, and the policies adopted in pursuance of its objectives; a review of the year's activities; a review of the financial state of the charity, all major financial transactions and salient features of the statement of accounts; an explanation of the purposes for which the charity's assets are held and an indication of the charity's future plans and commitments, with particular regard to on-going items of expenditure, projects not yet completed and obligations not yet met; a statement of accounts⁵³.

7. *The Charities (Annual Statement of Accounts) Regulations 1995*

This set of Regulations prescribes the content of the annual accounts. These are to include: an income and expenditure account; a balance sheet of assets, liabilities and funds; an explanation of the accounting policies used to prepare the accounts; and details of all transactions relating to funds of the charity.

8. *The Charities (Fund-raising Appeals For Foreign Charitable Purposes) Regulations 1995*

A permit is required to raise funds for charities overseas⁵⁴. This permit is not granted unless the fund-raiser undertakes to spend no less than 80% of the net proceeds in Singapore. This could mean that the money raised would have to be used to obtain supplies or goods in Singapore which are then to be delivered to the foreign charity. The Commissioner has the discretion to waive this rule. He may also stipulate conditions for the fund-raising, such as the time limit for the fund-raising appeal, the manner of fund-raising, age limit of fund collectors⁵⁵ and other conditions.

9. *The Code of Governance*

The Code, developed by the Charity Council, is presently still in draft stage. When finalized, it is intended to be a voluntary self-regulating code. It sets down a set of

guidelines which all charities must comply with or explain why they do not comply. The explanations are expected to be in the respective charity's annual report and website. It is believed that this "comply or explain" philosophy would promote greater transparency without imposing high costs in compliance and enforcement. This would be more flexible too as there cannot be a one-size fits all regulatory regime. Along these lines, the Code has three tiers: "Basic", "Enhanced" and "Advanced". The Basic rules apply to all charities; the Enhanced rules to IPCs and large charities; and the Advanced rules to large IPCs. Large IPCs and large charities of course mean charities and IPCs which have gross annual receipts of S\$10 million or more.⁵⁶

The objectives of the Code are to enhance the effectiveness of charities, promote best practices and enhance public confidence in the way charities are governed and managed. It proposes to do this by laying down guidelines in nine areas: strategic planning; board governance; conflict of interest; programme management; human resource management; financial management and controls; fund-raising; disclosure and transparency; public relations and corporate communications.

In general⁵⁷, a charity board is expected to define the charity's vision and mission and align these with its objectives and resources. Boards have to be independent of the management, and for this reason, board members are not to take executive roles exceeding six months. Board members who are Treasurers (or who are in equivalent positions, such as Chairmen of Audit and Finance Committees) are to have term limits of no more than four consecutive years, and may be re-appointed only after a lapse of at least a year. Management staff, though permitted to attend meetings, are not allowed to participate in the decision-making. Many religious charities have objected particularly to this part of the Code⁵⁸, as many religious organizations have spiritual leaders who perform executive roles and are supported by the donations of their members. Effectively these leaders would then be considered as paid employees and executives and will no longer be able to make decisions for their followers and lay down policies for their organizations.

Charities are asked to lay down clear human resource policies and policies to govern conflicts of interests between the charity and its Board members, staff, volunteers and major donors. The main areas of concern relate to situations where these persons have personal or vested interests in the charity's business transactions and contracts; or where there is a "close relationship" between staff to be recruited and the existing Board members, staff, volunteers or major donors. This particular rule is not popular as it appears to be too over-reaching. In many charities, and not just religious organizations

alone, people who are willing to volunteer and work in them tend to come from very close social circles.

The guidelines on financial management and fund-raising are rather detailed, as is to be expected. If anything can go wrong in a charity, it will usually have to do with money. A charity is expected to have appropriate budgets, adequate reserves, declare its reserves policy, have a fixed assets register and ensure adequate insurance coverage for them to safeguard their value. Fund-raising is to have integrity, be ethical and transparent and promote the trust of the public in the charity. Charities with adequate reserves are urged not to raise more funds. Charities are also urged to show appreciation to donors in appropriate ways and to refrain from injuring the confidences and dignity of donors. Charities are urged to exercise due care in the use of commercial fund-raisers and co-venturers⁵⁹, taking note especially of the possibility that its public image may be compromised. Finally, charities and their Boards are told to provide its stakeholders with annual reports, accounts and audited financial statements and to build up a positive image of the charity and to represent the interests of its beneficiaries.

4. Conclusion

It is necessary for the State to issue laws to regulate financial governance of organizations that collect money from the public, to protect the members of the public. Where these rules are formulated, they should not be targeted in word or in practice against religious organizations only. Furthermore, the State needs to be even-handed and just in its handling of religious matters, which have a tendency to turn emotional.

Occasionally it may be desired for social reasons for a State to pass laws which regulate religious behaviour. When this is done, the laws must be applied fairly and equally to all religions. For the building of trust and confidence in the law, the judicial machinery, and especially the judge that adjudicates disputes between the State and religious organizations, must be independent of the executive and of any particular religious group.

Any rule of law which is targeted at religions in general, or a specific religion, should be drawn up only if there is clear justification accepted by the religious community that is regulated. This will ensure that there is no undue State intervention in any religion, or simply misapplication of the law either as perceived or in practice. It would be useful for the assurance of minority religions if the State also has a constitutional mechanism (with participation from the religious community, including small and emergent religions) whereby such laws can be vetoed or nullified. In this way,

the legitimate interests of the State in protecting its citizens will be appreciated by all concerned – and peace, harmony and order will be easily maintained.

Reference:

- ¹. For details, see <http://www.singstat.gov.sg/stats/themes/people/demo.html> (accessed 8 Oct 2007). There are about 300 Jews in Singapore. The mid-2007 estimated population is 4.68m. Of these, 3.675m are Singaporeans.
- ². For background, see my paper delivered at the Inaugural Conference on Religion and the Rule of Law, Hanoi, September 2006, entitled: "Legislating to Protect Minorities and Religious Freedom: The Balance Between the State's Need to Preserve the Social Fabric and Individual Preferences". By "emerging" religions, I mean religions which have been founded in recent decades.
- ³. Refer to the paper cited in note 1 for a fuller discussion.
- ⁴. Pronounced "Sha-ri-a", this word is spelled in the system that has been standardized in the Malay-speaking countries of Malaysia, Indonesia, Brunei and Singapore.
- ⁵. These are laws dealing with personal matters such as wills and inheritance, marriages, divorce and custody of children: See, the Administration of Muslim Law Act, Cap 3.
- ⁶. This Act and several others like it, were enacted during the years when Singapore was a British Colony. They were primarily what we refer to as Private Acts which were initiated by non-government parties. Other examples are Bishop of Singapore Ordinance, Cap 355; Central Sikh Gurdwara Board Act, Cap 357; Hindu Endowments Act, Cap 364; Presbyterian Church Ordinance, Cap 372. Religious bodies such as these, which have been set up by Acts of Parliament, are exempted from the Charities laws and regulations: sections 2 and 5 read with the Schedule, Charities Act, Cap 37.
- ⁷. On the build-up and conclusion of the saga, see the press reports collected on the website <http://www.geraldton.com/medaffairs/misc-nkf.html#82> (accessed 6 Oct 2007).
- ⁸. Such as the financial difficulties of the Singapore Association for the Visually Handicapped, SAVH (2005, <http://sglead.wordpress.com/2006/09/27/singapore-association-of-the-visually-handicapped-savh-regains-ipc-status/>, accessed 6 Oct 2007), the St John's Home for the Elderly (2007, see http://www.bschoo1.nus.edu/Research/CGFRC/media_coverage.htm; or http://www.straitstimes.com/Video+News/Singapore/STIVodcast_2018.html?playid=2018&type=Singapore, accessed 6 Oct 2007) and the Singapore Rugby Union (2005, considered a sports charity, see <http://www.taipetimes.com/News/sport/archives/2005/11/11/2003279790>, accessed 6 Oct 2007).
- ⁹. As defined in the case law which is accepted as law in Singapore, charities are defined as those organizations which promote: the relief of poverty, the advancement of education, **the advancement of religion** (my emphasis) or other purposes beneficial to the community, as per Lord McNaghten's definition in the British case of *Commissioner for Special Purposes of Income Tax v Pemsel* [1891] AC 531.
- ¹⁰. The Singapore government imposes high customs duties to discourage consumption of cigarettes and liquor; and various high taxes on cars to control the excessive growth of cars on the roads so as to prevent congestion.
- ¹¹. This could, for example, be ostensibly a tax on hospital or education services, when the only operators of such services are religious organizations; or a property tax directed at properties which are not used on weekdays, and the only properties that fit this description are churches.
- ¹². See eg the cases of *PP v Koh* and *PP v Lim* (racist bloggers, <http://www.asiamedia.ucla.edu/article.asp?parentid=31206>).
- ¹³. Which are also governed by their own Acts of Parliament and governance rules, see note 6 above.
- ¹⁴. These regulations and subsidiary legislation have been tightened by amendments made in 2007.

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- ¹⁵. All religious groups in Singapore are either registered as societies or companies if they meet publicly. There are some religious groups which meet in private homes and these may not be registered, nor do they need to be registered. One such group is the Jehovah's Witnesses, whose right to meet privately has been accepted in a court case. See my paper mentioned in note 1 above.
- ¹⁶. Section 11, Income Tax Act, Cap 134.
- ¹⁷. Under s 13M (2)(b), Income Tax act, Cap 134, not less than 80% of the income must be spent within Singapore within 12 months.
- ¹⁸. Though religious groups in Singapore are regarded in law as charities, they have to pay tax if some of their activities are non-charitable, as would happen if they organize activities which are not in one of the four categories listed in note 9 above.
- ¹⁹. Section 13M, Income Tax Act, Cap 134.
- ²⁰. The definition of "Institution of Public Character" is found in section 40A of the Charities Act, Cap 37; and further elaborated in the Charities (Institutions of Public Character) Regulations 2007, paragraph 3.
- ²¹. Defined in the Code as charities with gross annual receipts of S\$10m or more in each of its two immediately preceding financial years.
- ²². This is not strictly a new position in the Singapore Civil Service. Nevertheless, before the NKF scandal, this position was one which was held by the Comptroller of Income Tax as a concurrent appointment. The position is now filled by a senior civil servant as a full-time appointment.
- ²³. "Charity trustees" are persons appointed by the respective charities to oversee the affairs of the charity that appointed them. In the words of the Charities Act, Cap 37, section 2, they are "the persons having the general control and management of the administration of a charity".
- ²⁴. Section 4(1) Charities Act, Cap 37.
- ²⁵. Sections 4A and 4B, Charities Act, Cap 37. The members of the Council are not members of the government. The current Chairman of the Council is an accountant in the private sector.
- ²⁶. Sections 8 to 11, Charities Act, Cap 37.
- ²⁷. Section 16, Charities Act, Cap 37.
- ²⁸. Section 13, Charities Act, Cap 37. These annual accounts have to audited by a public accountant (like listed companies in Singapore) if the charity's gross income or total expenditure in each of the preceding two years exceed S\$250,000; otherwise any approved company auditor or an independent competent person may perform the audit.
- ²⁹. Section 16(2)(a), Charities Act, Cap 37.
- ³⁰. Sections 12, 13, Charities Act, Cap 37.
- ³¹. Section 17, Charities Act, Cap 37.
- ³². Sections 22 to 23, 26A, 26B, 30, Charities Act, Cap 37.
- ³³. Section 27, Charities Act, Cap 37. They may also be removed by the Commissioner under Section 25(4) for the same reasons, or under section 25A for other reasons, Charities Act, Cap 37.
- ³⁴. Sections 33 to 39B, Charities Act, Cap 37.
- ³⁵. A rule then existing, and still preserved despite calls for a lowering of the percentage, in paragraph 15, Charities (Institutions of Public Character) Regulations, 2007. See note 37 below.
- ³⁶. Section 34, Charities Act, Cap 37. This is to prevent such professional fund-raisers or businesses from using the names of charities to raise funds, or sell their services or goods, even if eventually part of the money (less whatever "expenses" or "fees" they may arbitrarily charge) does reach the named charity.
- ³⁷. Paragraph 15, Charities (Institutions of Public Character) Regulations 2007: the total expenses (other than sponsorship expenses) for fund-raising must not exceed 30% of the total amount raised (including the amount of sponsorships). Sponsorships are goods or services donated by commercial companies which have a commercial value.
- ³⁸. Part V, Charities (Institutions of Public Character) Regulations 2007.
- ³⁹. Paragraph 11, Charities (Institutions of Public Character) Regulations 2007.
- ⁴⁰. Paragraph 7, Charities (Fund-raising Appeals) Regulations, 2007.

⁴¹. Paragraph 4, Charities (Fund-raising Appeals) Regulations, 2007. Strangely, the words used are different from those in the Charities Act, Cap 37, where the words “professional fund-raiser” are used instead. The definition of “commercial fund-raiser” appears to be wider than that for “professional fund-raiser” – with the result that the definition in the subsidiary legislation is wider than that in the Act. The spirit of the definition in the subsidiary legislation may thus be, arguably, *ultra vires*. The Charities (Institutions of Public Character) Regulations 2007 also uses the words “commercial fund-raiser” (with an equally broad definition) instead of “professional fund-raiser”.

⁴². Paragraph 5, Charities (Fund-raising Appeals) Regulations, 2007.

⁴³. Paragraph 6, Charities (Fund-raising Appeals) Regulations, 2007.

⁴⁴. Paragraph 8, Charities (Fund-raising Appeals) Regulations, 2007.

⁴⁵. Large charities which are Institutions of Public Character are not governed by these Regulations, but by the more elaborate Charities (Institutions of Public Character) Regulations 2007. Religious charities, which are unlikely to be IPCs (see note 20 above, and the accompanying text), come under the Charities (Large Charities) Regulations 2007.

⁴⁶. The Code and the Regulations have slightly different definitions, see note 56 below.

⁴⁷. Paragraph 4, Charities (Large Charities) Regulations 2007. The supposition here is that financial abuses and poor governance would be less likely where there are larger numbers of persons involved in the charity. Besides, it is less likely that a situation would arise where only one person is left in charge of huge sums of money due to the absence, negligence, mistakes, death or other incapacities or incompetencies of existing trustees.

⁴⁸. That is, the Societies Act, Cap 311; or the Companies Act, Cap 50.

⁴⁹. See my paper cited in note 1.

⁵⁰. Paragraph 5, Charities (Registration of Charities) Regulations 2007.

⁵¹. For example, whether this is a Constitution or a Trust Deed.

⁵². This is a separate body from the charity trustees, but may contain none of, some of or all of the charity trustees.

⁵³. Charities where the annual gross income does not exceed S\$50,000 – under section 13(3), Charities Act, Cap 37 - may submit instead a receipt and payments account and a statement of assets and liabilities.

⁵⁴. Paragraph 3, Charities (Fund-raising Appeals For Foreign Charitable Purposes) Regulations 1995.

⁵⁵. Unless permission is granted, they must be above 16 years old. This is to prevent the exploitation of children.

⁵⁶. This definition is not exactly the same as that in the Act and subsidiary legislation. This needs to be corrected.

⁵⁷. For the purpose of this paper, I shall touch and comment only on the Basic tier of the Code.

⁵⁸. There has in fact been a move by some religious groups to ask the government and the Charity Council to have a separate regulator who understands the special needs and circumstances of religious groups. This move is probably not wise (government officials are not the best persons to decide what religions should, or should not to do: they do not have the necessary expertise; nor will they be seen as neutral enough to decide on such matters). The move is also not well-thought out, being a knee-jerk reaction to the request of the Charity Council to extend a situation-blind guideline and non-mandatory rule to religions. The better option is simply to ask for a special exception in the Code in the case of religious charities.

⁵⁹. Occasionally, a charity might go into a joint venture with another organization (whether commercial or non-profit) to raise funds, or earn revenue, or simply to gain some publicity. The concern here is that the co-venturer might be riding on public sympathies for the charity to earn commercial profit, and this might directly or indirectly damage the reputation of the charity in the eyes of the public – especially if the co-venturer is involved in activities which may draw adverse publicity to the charity.