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FINANCIAL SERVICES AND MARKETS ACT 2022

FINANCIAL SERVICES AND MARKETS
(DISPUTE RESOLUTION SCHEMES)
REGULATIONS 2023

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In exercise of the powers conferred by sections 38 and 192 of the Financial Services and Markets Act 2022, the Monetary Authority of Singapore makes the following Regulations:

Citation and commencement

1. These Regulations are the Financial Services and Markets (Dispute Resolution Schemes) Regulations 2023 and come into operation on 28 April 2023.

Definitions

2. In these Regulations —

“approved terms of reference”, in respect of an approved dispute resolution scheme, means —

- (a) the terms of reference applicable to the approved dispute resolution scheme at the time the dispute resolution scheme was approved by the Authority on an application made under section 31(2) of the Act; or
- (b) if the operator of the approved dispute resolution scheme has obtained the Authority’s approval to amend the terms of reference mentioned in paragraph (a), the terms of reference as amended with the Authority’s approval;

“company” has the meaning given by section 4(1) of the Companies Act 1967;

“complainant” means a consumer who refers a dispute to the operator of an approved dispute resolution scheme;

“financial year” has the meaning given by section 4(1) of the Companies Act 1967;

“membership fee” means the annual amount payable to the operator of an approved dispute resolution scheme by a member of the scheme for the purposes of funding the scheme;

“related corporation” has the meaning given by section 4(1) of the Companies Act 1967;

“substantial shareholder” has the meaning given by section 81 of the Companies Act 1967.

Application for approval of dispute resolution scheme

3.—(1) For the purpose of section 31(4)(a) of the Act, the prescribed requirements are that the applicant —

- (a) must be a company; and

(b) must not be a financial institution or an association of financial institutions.

(2) For the purpose of section 31(4)(b) of the Act, the prescribed requirements are that the proposed terms of reference must include all of the following:

- (a) the types of disputes that may be referred by a complainant to the operator of the dispute resolution scheme;
- (b) the procedure for referring a dispute to the operator of the dispute resolution scheme;
- (c) the time period within which a dispute must be referred to the operator, which must be no later than 6 months after attempts by the complainant and the relevant member of the dispute resolution scheme to resolve the dispute have failed;
- (d) the procedure for the receipt, processing and resolution of a dispute;
- (e) the fees payable by the complainant and the relevant member of the dispute resolution scheme in respect of each dispute of theirs referred to the operator;
- (f) the circumstances in which a dispute would be dismissed by the operator without referring the complainant and the relevant member of the scheme for mediation under the dispute resolution scheme;
- (g) the circumstances in which a dispute would be adjudicated under the dispute resolution scheme;
- (h) the types of awards that may be made by an adjudicator under the dispute resolution scheme;
- (i) the procedure for the notification of the outcome of the adjudication of a dispute to the complainant and the relevant member of the dispute resolution scheme.

Members of approved dispute resolution schemes

4.—(1) The list of dispute resolution schemes approved by the Authority under section 31(1) of the Act is set out in the First Schedule.

(2) Every financial institution described in Part 1 of the Second Schedule must be a member of at least one of the approved dispute resolution schemes specified in the First Schedule.

Cancellation or suspension of approval of scheme

5.—(1) The Authority may cancel the approval of an approved dispute resolution scheme if —

- (a) there exists a ground on which the Authority may refuse an application for a dispute resolution scheme under section 31(4) of the Act;
- (b) the operator has contravened these Regulations or any condition mentioned in section 31(3) of the Act to which the approval was subject;
- (c) it appears to the Authority that the operator is administering the approved dispute resolution scheme in a manner —
 - (i) that is, or is likely to be, detrimental to the members of the approved dispute resolution scheme or consumers; or
 - (ii) that is contrary to the public interest;
- (d) it appears to the Authority that the operator has not acted efficiently, honestly or fairly in the administration of the approved dispute resolution scheme;
- (e) the operator fails or ceases to administer the scheme; or
- (f) any information or document that is provided by the operator to the Authority is false or misleading.

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- (2) The Authority may, if it considers it desirable to do so —
- (a) suspend the approval of an approved dispute resolution scheme for a specific period instead of cancelling it under paragraph (1); and
 - (b) at any time extend or revoke the suspension.

Terms of reference of scheme

6.—(1) The operator of an approved dispute resolution scheme must administer the approved dispute resolution scheme in accordance with the approved terms of reference.

(2) The operator must publish the approved terms of reference in the manner that the Authority may specify.

(3) The operator must not amend any term of reference that specifies any fee payable by a complainant and the relevant member of the approved dispute resolution scheme in respect of any dispute of theirs referred to the operator unless the operator, in addition to obtaining the Authority's approval to amend the term of reference —

- (a) consults the members of the approved dispute resolution scheme on the proposed amendment of the term of reference; and
- (b) obtains the approval of the board of directors of the operator to amend the term of reference.

Estimates of income and expenditure of scheme

7.—(1) The operator of an approved dispute resolution scheme must submit to the Authority no later than 2 months before the commencement of each financial year of the operator —

- (a) the operator's annual estimates of income and expenditure of the approved dispute resolution scheme for that financial year; and
- (b) the resolution of the operator's board of directors approving the estimates.

(2) The operator may adopt the estimates submitted to the Authority under paragraph (1) if the Authority does not object to

or seek any clarification on the estimates in writing within 14 days after the submission of the estimates.

(3) If the Authority seeks any clarification on the estimates within the period specified in paragraph (2) —

(a) the Authority may at any time thereafter —

(i) seek any further clarifications on the estimates that the Authority requires; or

(ii) object to the estimates; and

(b) the operator must only adopt the estimates if notified by the Authority that the Authority does not object to the estimates.

(4) If the Authority objects to the estimates, the operator must submit to the Authority new estimates within the time that may be specified by the Authority.

(5) The operator must determine (in accordance with the estimates adopted by the operator under this regulation in respect of a financial year) and notify the Authority of, the membership fee payable by each class of members of the approved dispute resolution scheme for that financial year —

(a) where the Authority does not object to or seek any clarification on the estimates within the period specified in paragraph (2) — within 4 weeks (or any longer period that the Authority may allow) after the expiry of that period; or

(b) in any other case — within 4 weeks (or any longer period that the Authority may allow) after the Authority notifies the operator that it does not object to the estimates.

(6) Paragraphs (2), (3), (4) and (5) apply to any new estimates submitted by the operator to the Authority —

(a) under paragraph (4); or

(b) in response to any clarification sought by the Authority under this regulation,

as if a reference to estimates in those paragraphs is a reference to the new estimates.

Composition of board of directors of operator

8.—(1) The board of directors of the operator of an approved dispute resolution scheme must consist of —

- (a) a chairperson, who is appointed by the board and who is an independent director; and
- (b) 3 or more other directors, of whom at least half are independent directors.

(2) In this regulation, “independent director” means a director who is not a substantial shareholder, officer or employee of —

- (a) a financial institution; or
- (b) a related corporation of a financial institution.

Annual report of board of directors of operator

9. The board of directors of the operator of an approved dispute resolution scheme must, within 5 months after the end of each financial year of the operator, cause to be made available to the public, in the manner that may be specified by the Authority, a report on the approved dispute resolution scheme administered by the operator during that financial year.

Obligation to submit periodic reports to Authority

10. The operator of an approved dispute resolution scheme must submit to the Authority —

- (a) within 6 weeks after the end of each quarter of a year — a report on the disputes referred to the operator under the scheme during that quarter; and
- (b) within 14 days after any failure by a member of the scheme to comply with an award made against the member by an adjudicator under the scheme — a report on that failure.

Independent review of scheme

11.—(1) The operator of an approved dispute resolution scheme must, at least once every 3 financial years, commission a review of its administration of the approved dispute resolution scheme by an

independent party with the relevant expertise to conduct such a review.

(2) The Authority may, subject to any conditions that it may impose, allow any review that is due to be commissioned under paragraph (1) to be conducted at a later time.

(3) The operator must ensure that all records and other information as may be required for the purpose of a review under paragraph (1) are retained for a period of at least 5 years from the end of the financial year to which those records and other information relate.

(4) The operator must consult the Authority on the terms of a review under paragraph (1).

(5) A review under paragraph (1) must include a qualitative assessment of the operator's operations and procedures during the period under review.

(6) The Authority may at any time, if satisfied that it is in the interests of the operator, the members of the approved dispute resolution scheme or the public to do so, require the operator to commission any other review of the administration of the scheme by an independent party with the relevant expertise to conduct such a review, on any terms that may be specified by the Authority.

(7) The operator must provide the results of a review —

(a) under paragraph (1) or (6) to the Authority; and

(b) under paragraph (1) to the members of the approved dispute resolution scheme.

(8) The operator must bear the costs and expenses of a review under paragraph (1) or (6).

Revocation

12. Revoke the Monetary Authority of Singapore (Dispute Resolution Schemes) Regulations 2007 (G.N. No. S 436/2007) (called in these Regulations the revoked Regulations).

Saving and transitional provisions

13.—(1) In respect of a deemed approved dispute resolution scheme —

- (a) the terms of reference applicable to the deemed approved dispute resolution scheme under the revoked Regulations immediately before 28 April 2023 are, on and after that date, treated as the approved terms of reference of the deemed approved dispute resolution scheme;
- (b) any annual estimates of income and expenditure of a deemed approved dispute resolution scheme submitted under regulation 7(1)(a) of the revoked Regulations before 28 April 2023 and that have not been adopted before that date, are treated as having been submitted under regulation 7(1)(a) of these Regulations;
- (c) any clarification on an estimate sought by the Authority under regulation 7(2) or (3)(a) of the revoked Regulations before 28 April 2023 that has not been dealt with before that date (whether by way of the Authority objecting to the estimate or notifying the operator of the deemed approved dispute resolution scheme that the Authority does not object to the estimate) is treated as having been sought under regulation 7(2) or (3)(a)(i) of these Regulations, as the case may be;
- (d) where —
 - (i) a deemed approved dispute resolution scheme has, before 28 April 2023, adopted any estimates under regulation 7(2) or (3)(b) of the revoked Regulations; and

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- (ii) the operator of the deemed approved dispute resolution scheme has not, before 28 April 2023, determined (in accordance with the estimates mentioned in sub-paragraph (i)) and notified the Authority of the membership fee of the deemed approved dispute resolution scheme under regulation 7(5) of the revoked Regulations,

the estimates are treated as estimates adopted under regulation 7(2) or (3)(b) of these Regulations, as the case may be;

(e) where —

- (i) the Authority has, before 28 April 2023, made an objection to an estimate submitted by the operator of a deemed approved dispute resolution scheme, under regulation 7(2) or (3)(a) of the revoked Regulations; and

- (ii) the operator has not, before 28 April 2023, submitted any new estimate under regulation 7(4) of the revoked Regulations,

the objection is treated as an objection under regulation 7(2) or (3)(a)(ii) of these Regulations, as the case may be;

- (f) any new estimate submitted by the operator of a deemed approved dispute resolution scheme under regulation 7(4) of the revoked Regulations before 28 April 2023 that has not been adopted before that date, is treated as having been submitted under regulation 7(4) of these Regulations;

(g) where —

- (i) the Authority has, before 28 April 2023, given a notification under regulation 7(3)(b) of the revoked Regulations that it does not object to estimates submitted by the operator of a deemed approved dispute resolution scheme; and

(ii) the operator has not, before 28 April 2023, determined (in accordance with the estimates mentioned in sub-paragraph (i)) and notified the Authority of the membership fee of the deemed approved dispute resolution scheme under regulation 7(5) of the revoked Regulations,

the notification is treated as a notification given by the Authority under regulation 7(3)(b) of these Regulations;

(h) a person who was a director or chief executive officer of a deemed approved dispute resolution scheme immediately before 28 April 2023 and whose appointment as such had been approved by the Authority under the revoked Regulations is, on and after that date, treated as having been so appointed with the prior approval of the Authority for the purposes of section 32 of the Act;

(i) the period of 3 financial years mentioned in regulation 11(1), in the case of the operator of a deemed approved dispute resolution scheme, starts after the date on which the most recent independent review under regulation 12 of the revoked Regulations was conducted; and

(j) the requirement on the operator of a deemed approved dispute resolution scheme to retain records and other information under regulation 12(2) of the revoked Regulations continues, on and after 28 April 2023, for the period specified in that provision.

(2) Where —

(a) a dispute has been referred to a deemed approved dispute resolution scheme approved before 28 April 2023; and

(b) the dispute has not been dealt with or disposed of, under the deemed approved dispute resolution scheme, before that date,

the dispute may, on and after that date, continue to be dealt with or disposed of under the deemed approved dispute resolution scheme.

(3) In this regulation, “deemed approved dispute resolution scheme” means a dispute resolution scheme approved under section 28A(1) of the Monetary Authority of Singapore Act 1970 as in force immediately before 28 April 2023 that is deemed under section 219(n) of the Act to be approved under section 31(1) of the Act.

FIRST SCHEDULE

Regulation 4(1) and (2)

APPROVED DISPUTE RESOLUTION SCHEMES

1. The dispute resolution scheme operated by the Financial Industry Disputes Resolution Centre Ltd.

SECOND SCHEDULE

Regulation 4(2)

PART 1

FINANCIAL INSTITUTIONS

1. A bank licensed under the Banking Act 1970.
2. A finance company licensed under the Finance Companies Act 1967.
3. A person licensed under the Banking Act 1970 to carry on the business of issuing credit cards or charge cards in Singapore.
4. A direct insurer registered under the Insurance Act 1966 other than —
 - (a) a specialist insurer; or
 - (b) an insurer which carries on the business of providing the insurance of liabilities under insurance policies only to persons other than individuals.
5. A direct insurance broker.
6. A person holding a capital markets services licence under the Securities and Futures Act 2001, other than a person whose capital markets services licence relates only to any one or more of the following regulated activities:
 - (a) advising on corporate finance;
 - (b) providing credit rating services;
 - (c) any other regulated activity under the Securities and Futures Act 2001, for which the person is required by a condition of the licence to only

SECOND SCHEDULE — *continued*

carry out the regulated activity in relation to any one or more of the following classes of persons:

- (i) accredited investors;
- (ii) expert investors;
- (iii) institutional investors.

7. A person holding a financial adviser's licence under the Financial Advisers Act 2001, other than a person who is required by a condition of the financial adviser's licence to provide financial advisory services only to any one or more of the following classes of persons:

- (a) individuals who are accredited investors;
- (b) corporations.

8. An approved exchange that —

- (a) operates an organised market; and
- (b) allows an offer or invitation to exchange, sell or purchase any —
 - (i) derivatives contract;
 - (ii) securities;
 - (iii) unit in a collective investment scheme; or
 - (iv) product in respect of which an offer or invitation to exchange, sell or purchase may be made in a facility or class of facilities prescribed for the purposes of paragraph 1(1)(b) of the First Schedule to the Securities and Futures Act 2001,

to be made on the organised market by or to an individual who is not an accredited investor, expert investor or institutional investor directly without any intermediary.

9. A person holding a licence granted under section 7 or renewed under section 8 of the Credit Bureau Act 2016 to carry on —

- (a) a consumer credit reporting business; or
- (b) both a consumer credit reporting business and a corporate credit reporting business.

SECOND SCHEDULE — *continued*

PART 2

DEFINITIONS

In this Schedule —

- “accredited investor” has the meaning given by section 4A(1)(a) of the Securities and Futures Act 2001;
- “advising on corporate finance” has the meaning given by Part 2 of the Second Schedule to the Securities and Futures Act 2001;
- “approved exchange” has the meaning given by section 2(1) of the Securities and Futures Act 2001;
- “charity” has the meaning given by section 2(1) of the Charities Act 1994;
- “collective investment scheme” has the meaning given by section 2(1) of the Securities and Futures Act 2001;
- “consumer credit reporting business” has the meaning given by section 2 of the Credit Bureau Act 2016;
- “corporate credit reporting business” has the meaning given by section 2 of the Credit Bureau Act 2016;
- “derivatives contract” has the meaning given by section 2(1) of the Securities and Futures Act 2001;
- “direct insurance broker” has the meaning given by section 2 of the Insurance Act 1966;
- “direct insurer” has the meaning given by section 2 of the Insurance Act 1966;
- “expert investor” has the meaning given by section 4A(1)(b) of the Securities and Futures Act 2001;
- “financial advisory service” has the meaning given by section 2(1) of the Financial Advisers Act 2001;
- “individuals”, for the purposes of paragraph 4(b) of Part 1, does not include individuals dealing in the course of or in relation to, a business, trade, profession or vocation; or in relation to a charity, partnership, trust, society or unincorporated association;
- “institutional investor” has the meaning given by section 4A(1)(c) of the Securities and Futures Act 2001;
- “organised market” has the meaning given by section 2(1) of the Securities and Futures Act 2001;

SECOND SCHEDULE — *continued*

“providing credit rating services” has the meaning given by Part 2 of the Second Schedule to the Securities and Futures Act 2001;

“regulated activity” has the meaning given by section 2(1) of the Securities and Futures Act 2001;

“securities” has the meaning given by section 2(1) of the Securities and Futures Act 2001;

“specialist insurer” means —

- (a) any financial guarantee insurer as defined in regulation 2 of the Insurance (Financial Guarantee Insurance) Regulations (Rg 6);
- (b) any credit and political risk insurer;
- (c) any marine mutual insurer as defined in section 2 of the Insurance Act 1966;
- (d) any captive insurer as defined in section 2 of the Insurance Act 1966; or
- (e) any insurer carrying on insurance business under any foreign insurer scheme established under section 53 of the Insurance Act 1966.

Made on 10 April 2023.

RAVI MENON
Managing Director,
Monetary Authority of Singapore.

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