
First published in the *Government Gazette*, Electronic Edition, on 5 April 2019 at 5 pm.

No. S 294

FINANCIAL ADVISERS ACT (CHAPTER 110)

FINANCIAL ADVISERS (AMENDMENT NO. 3) REGULATIONS 2019

In exercise of the powers conferred by sections 100(1) and 104(1) of the Financial Advisers Act, the Monetary Authority of Singapore makes the following Regulations:

Citation and commencement

1.—(1) These Regulations are the Financial Advisers (Amendment No. 3) Regulations 2019 and, except for regulation 5(c), are deemed to have come into operation on 8 October 2018.

(2) Regulation 5(c) is deemed to have come into operation on 8 January 2019.

Amendment of regulation 2

2. Regulation 2(1) of the Financial Advisers Regulations (Rg 2) (called in these Regulations the principal Regulations) is amended —

(a) by inserting, immediately after the definition of “entity”, the following definition:

““ex-accredited investor” means any of the following:

(a) an individual who was an accredited investor under section 4A(1)(a)(i) of the Securities and Futures Act (Cap. 289) as in force immediately before 8 October 2018, but who ceases to be an accredited investor under section 4A(1)(a)(i), read with

section 4A(1A), of that Act as in force on or after 8 October 2018;

(b) a partnership (other than a limited liability partnership within the meaning of the Limited Liability Partnerships Act (Cap. 163A)) in which each partner was an accredited investor under section 4A(1)(a) of the Securities and Futures Act as in force immediately before 8 October 2018, but any individual partner of which ceases to be an accredited investor under section 4A(1)(a)(i), read with section 4A(1A), of that Act as in force on or after 8 October 2018;

(c) a corporation (the sole business of which is to hold investments) the entire share capital of which is owned by one or more accredited investors under section 4A(1)(a) of the Securities and Futures Act as in force immediately before 8 October 2018, but any individual of such accredited investors ceases to be an accredited investor under section 4A(1)(a)(i), read with section 4A(1A), of that Act as in force on or after 8 October 2018;”;
and

(b) by inserting, immediately after the definition of “exchange-traded derivatives contract”, the following definition:

““existing customer”, in relation to a person (A),
means —

- (a) a person (*B*) to whom *A* has provided any financial advisory service before 8 October 2018, and who was treated by *A* as an accredited investor when *A* provided that financial advisory service to *B*; or
- (b) a person (*C*) with whom *A* has entered into an agreement before 8 October 2018 to provide any financial advisory service, and who was treated as an accredited investor when *A* entered into the agreement with *C*;

Amendment of regulation 4A

3. Regulation 4A of the principal Regulations is amended by deleting paragraph (6) and substituting the following paragraph:

“(6) In paragraph (4)(c), (d) and (e), the reference to “client or member of the public” excludes any of the following:

- (a) an accredited investor;
- (b) an expert investor;
- (c) an institutional investor;
- (d) an ex-accredited investor who is an existing customer of the principal, but only in respect of the representative’s provision of any financial advisory service in the period from 8 October 2018 to 7 April 2019 (both dates inclusive).”.

Amendment of regulation 18B

4. Regulation 18B(9) of the principal Regulations is amended by deleting the definition of “targeted client” and substituting the following definition:

““targeted client”, in relation to a financial adviser who intends to sell or market a new product, means any client to whom the financial adviser intends to sell or market

the new product, other than a client that is any of the following:

- (a) an accredited investor;
- (b) an expert investor;
- (c) an institutional investor;
- (d) an ex-accredited investor who is an existing customer of the financial adviser, but only in respect of the financial adviser's intention to sell or market the new product in the period from 8 October 2018 to 7 April 2019 (both dates inclusive)."

Amendment of regulation 27

5. Regulation 27 of the principal Regulations is amended —

- (a) by inserting, immediately after paragraph (1), the following paragraphs:

“(1A) For the purposes of paragraph (1)(d), where a person acts as a financial adviser in giving advice in Singapore in the manner specified in that paragraph in the period from 8 October 2018 to 7 April 2019 (both dates inclusive) to an ex-accredited investor who is the person's existing customer, that ex-accredited investor is treated as an accredited investor.

(1B) For the purposes of paragraph (1)(g), where a person carries on business of advising any ex-accredited investor who is an existing customer of the person in the manner mentioned in that paragraph and in the period from 8 October 2018 to 7 April 2019 (both dates inclusive), the person is treated as carrying on the business of advising accredited investors in that manner.”;

- (b) by deleting the definition of “qualified investor” in paragraph (8) and substituting the following definition:

““qualified investor” has the same meaning as in paragraph 1 of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Cap. 289, Rg 10) except that any reference in that paragraph to “accredited investor”, in relation to any transaction, is read to include a person who is treated as an “accredited investor” under paragraph (a), (b), (c), (d) or (e) of regulation 4(1) or (2) of the Securities and Futures (Amendment) Act 2017 (Saving and Transitional Provisions for Classes of Investors) Regulations 2018 (G.N. No. S 662/2018), in respect of a transaction mentioned in that paragraph;” and

(c) by deleting the definition of “qualified investor” in paragraph (8) and substituting the following definition:

““qualified investor” has the same meaning as in paragraph 1 of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Cap. 289, Rg 10) except that any reference in that paragraph to “accredited investor”, in relation to any transaction, is read to include —

(a) a person who is treated as an “accredited investor” under paragraph (a), (b), (c), (d) or (e) of regulation 4(1) or (2) of the Securities and Futures (Amendment) Act 2017 (Saving and Transitional Provisions for Classes of Investors) Regulations 2018 (G.N. No. S 662/2018), in respect of a transaction mentioned in that paragraph; and

(b) a person (A) mentioned in regulation 2 of the Securities and Futures (Prescribed Specific Classes of Investors) Regulations 2005 (G.N. No. S 369/2005) as in force immediately before 8 January 2019, if the transaction —

(i) is entered into between A and a person (B) mentioned in paragraph (1)(d) of this regulation; and

(ii) only involves funds —

(A) that were transferred to B before 8 January 2019; or

(B) in respect of which an agreement had been entered into before 8 January 2019 to transfer those funds to B;”.

Amendment of regulation 28

6. Regulation 28 of the principal Regulations is amended by deleting paragraph (1) and substituting the following paragraph:

“(1) A corporation (not being a licensed financial adviser or a person exempt from holding a financial adviser’s licence under section 23(1)(a), (b), (c), (d) or (e) of the Act) which carries on a business of providing advice concerning bonds to any of the following, either directly or through publications or writings or by issuing or promulgating research analyses or research reports, is exempt under section 23(1)(f) of the Act from holding a financial adviser’s licence in respect of that activity:

(a) an expert investor;

(b) an accredited investor;

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- (c) an ex-accredited investor who is an existing customer of the corporation, but only in respect of the corporation's business of providing advice concerning bonds that is carried on in the period from 8 October 2018 to 7 April 2019 (both dates inclusive).”.

Amendment of regulation 32C

7. Regulation 32C(1) of the principal Regulations is amended by deleting sub-paragraph (d) and substituting the following sub-paragraph:

“(d) the analysis or report contains a statement to the effect that the financial adviser in Singapore accepts legal responsibility for the contents of the analysis or report without any disclaimer limiting or otherwise curtailing such legal responsibility unless the analysis or report is issued or promulgated to a person who is any of the following:

- (i) an accredited investor;
- (ii) an expert investor;
- (iii) an institutional investor;
- (iv) an ex-accredited investor who is an existing customer of the financial adviser in Singapore, but only in respect of any research analysis or research report issued or promulgated in the period from 8 October 2018 to 7 April 2019 (both dates inclusive).”.

Amendment of regulation 32CA

8. Regulation 32CA(2) of the principal Regulations is amended —

- (a) by deleting sub-paragraph (a); and
- (b) by deleting the word “and” at the end of sub-paragraph (b), and by inserting immediately thereafter the following sub-paragraph:

“(ba) the financial advisory service is provided to any of the following:

- (i) an accredited investor;
- (ii) an expert investor;
- (iii) an institutional investor;
- (iv) an ex-accredited investor who is an existing customer of the related corporation mentioned in sub-paragraph (b), but only in respect of the foreign company’s provision of the financial advisory service in the period from 8 October 2018 to 7 April 2019 (both dates inclusive); and”.

Amendment of regulation 33

9. Regulation 33 of the principal Regulations is amended —

(a) by deleting sub-paragraph (a) of paragraph (1) and substituting the following sub-paragraph:

“(a) any designated investment product (within the meaning of section 25(6) of the Act) to any of the following:

- (i) an accredited investor;
- (ii) an ex-accredited investor who is an existing customer of the licensed financial adviser or exempt financial adviser (as the case may be) but only in respect of the provision of the financial advisory service by the licensed financial adviser, the exempt financial adviser, or any of its appointed or provisional representative (as the case may be) in the period from

8 October 2018 to 7 April 2019 (both dates inclusive); or”; and

- (b) by deleting the words “or expert investor” wherever they appear in paragraph (2) and substituting in each case the words “, expert investor or ex-accredited investor”.

Amendment of regulation 34

10. Regulation 34 of the principal Regulations is amended —

- (a) by deleting sub-paragraph (a) of paragraph (1) and substituting the following sub-paragraph:

“(a) any investment product to any of the following:

- (i) an accredited investor;
- (ii) an ex-accredited investor who is an existing customer of the licensed financial adviser or exempt financial adviser (as the case may be) but only in respect of the making of any recommendation by the licensed financial adviser, the exempt financial adviser, or any of its appointed or provisional representatives (as the case may be) in the period from 8 October 2018 to 7 April 2019 (both dates inclusive);”; and

- (b) by deleting the words “or expert investor” wherever they appear in paragraph (2) and substituting in each case the words “, expert investor or ex-accredited investor”.

Amendment of regulation 34A

11. Regulation 34A(1) of the principal Regulations is amended by deleting sub-paragraph (i) of sub-paragraph (d) and substituting the following sub-paragraph:

“(i) its business of providing any financial advisory service to a client —

(A) who is any of the following:

(AA) an accredited investor;

(AB) an expert investor;

(AC) an institutional investor;

(AD) an existing customer of the licensed financial adviser or exempt financial adviser (as the case may be) but only in respect of the business of providing any financial advisory service that is carried out by the licensed financial adviser or exempt financial adviser (as the case may be) in the period from 8 October 2018 to 7 April 2019 (both dates inclusive); or

(B) that is not an individual;”.

Amendment of regulation 35

12. Regulation 35 of the principal Regulations is amended —

(a) by deleting sub-paragraph (a) of paragraph (1) and substituting the following sub-paragraph:

“(a) any specified product to any of the following:

(i) an expert investor;

(ii) an accredited investor;

(iii) an ex-accredited investor who is an existing customer of the licensed financial adviser or exempt financial adviser (as the case may be) but only in respect of the sending

of any circular or other similar written communication in which a recommendation is made by the licensed financial adviser, the exempt financial adviser, or any of its appointed or provisional representatives in the period from 8 October 2018 to 7 April 2019 (both dates inclusive); or”; and

- (b) by deleting the words “or expert investor” wherever they appear in paragraph (2) and substituting in each case the words “, expert investor or ex-accredited investor”.

*[G.N. Nos. S 76/2004; S 692/2004; S 362/2005; S 58/2007;
S 274/2008; S 716/2010; S 433/2011; S 383/2012;
S 166/2013; S 169/2015; S 394/2015; S 815/2015;
S 521/2016; S 113/2017; S 586/2017; S 385/2018;
S 386/2018; S 493/2018; S 659/2018; S 660/2018;
S 886/2018; S 28/2019; S 29/2019]*

Made on 28 March 2019.

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[MPI MCP 06/2019; AG/LEGIS/SL/110/2015/2 Vol. 5]