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FINANCIAL ADVISERS ACT
(CHAPTER 110)

FINANCIAL ADVISERS
(AMENDMENT) REGULATIONS 2011

In exercise of the powers conferred by sections 23(1)(f) and 104 of the Financial Advisers Act, the Monetary Authority of Singapore hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Financial Advisers (Amendment) Regulations 2011 and shall come into operation on 28th July 2011.

New regulation 18B

2. The Financial Advisers Regulations (Rg 2) are amended by inserting, immediately after regulation 18A, the following regulation:

“Product due diligence

18B.—(1) Before selling or marketing any new product in Singapore to any targeted client, a financial adviser shall carry out a due diligence exercise to ascertain whether the new product is suitable for the targeted client.

(2) A due diligence exercise required to be carried out under paragraph (1) shall include an assessment of all the following areas:

- (a) the type of targeted client the new product is suitable for and whether the new product matches the client base of the financial adviser;
- (b) the investment objective of the new product;
- (c) the key risks that a targeted client who invests in the new product potentially faces;

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- (d) the costs and fees to be incurred by a targeted client investing in the new product as compared to other products with similar features sold by the financial adviser;
 - (e) the processes in place for a representative of the financial adviser to determine whether the new product is suitable for the targeted client, taking into consideration the nature, key risks and features of the new product;
 - (f) how the new product is intended to be marketed or sold;
 - (g) whether any additional measures are necessary to mitigate any conflict of interest between a representative of the financial adviser and his targeted client, arising from the remuneration of such representative as a result of the sale of the new product to that targeted client;
 - (h) the minimum qualifications or training required for a representative of the financial adviser before such representative commences financial advisory services in respect of the new product; and
 - (i) whether the current systems of the financial adviser, including all relevant client sales documents, adequately support the sale of the new product to the targeted client.

(3) No financial adviser shall sell or market any new product to any targeted client unless every member of the senior management of the financial adviser has, on the basis of the result of the due diligence exercise carried out on the new product under paragraph (1) —

- (a) personally satisfied himself that the new product is suitable for the targeted client; and
- (b) personally approved the sale or marketing of the new product to the targeted client.

(4) Notwithstanding paragraph (3), the senior management of the financial adviser may, with the unanimous consent of all its members, designate —

- (a) a person who is not a member of the senior management (referred to in this regulation as the designated person) to personally satisfy himself and approve in accordance with the requirements referred to in paragraph (3)(a) and (b); or

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- (b) a committee comprising persons who are not members of the senior management (referred to in this regulation as the designated committee) and every member of the designated committee shall personally satisfy himself and approve in accordance with the requirements referred to in paragraph (3)(a) and (b),

as the case may be; and every member of the senior management shall ensure that the designated person or every member of the designated committee, as the case may be, fulfills those requirements.

(5) A failure by any member of the senior management to fulfill any of the requirements set out in paragraph (3) or (4) shall be deemed to be a failure of that member to discharge the duties or functions of his office under section 57(1)(c) of the Act.

(6) Where the senior management of the financial adviser contravenes paragraph (4) by designating a designated person or designated committee without the unanimous consent of all of its members, every member of the senior management who consented to such designation will be deemed to have failed to discharge the duties or functions of his office under section 57(1)(c) of the Act.

(7) A financial adviser shall maintain records of —

- (a) any due diligence exercise carried out under paragraph (1) in respect of a new product sold or marketed by the financial adviser; and
- (b) any approval referred to in paragraph (3)(b) for the sale or marketing of that new product by the members of the senior management of the financial adviser, the designated person or the members of the designated committee, as the case may be,

for a period of not less than 5 years after the date on which the approval referred to in sub-paragraph (b) is first obtained.

(8) For the avoidance of doubt, no financial adviser shall sell or market any new product to any targeted client if the due diligence exercise required to be and carried out under paragraph (1) indicates that the new product is not suitable for the targeted client.

(9) In this regulation —

“key risk” means any risk to a client’s investment in a new product, and includes any market risk, liquidity risk and product-specific risk;

“member of the senior management”, in relation to a financial adviser, means any person for the time being holding the office of chief executive officer or executive director of the financial adviser, including any person carrying out the duties of any such office if the office is vacant;

“new product”, in relation to a financial adviser —

(a) means any investment product other than —

- (i) any contract or arrangement for the purpose of foreign exchange trading;
- (ii) any futures contracts traded on a futures exchange, overseas futures exchange or recognised market operator; or
- (iii) any securities quoted on a securities exchange, overseas securities exchange or recognised market operator,

that has not previously been sold or marketed by —

(AA) the financial adviser; or

(BB) any representative of the financial adviser;
and

(b) includes any investment product other than the products referred to in paragraph (a)(i), (ii) and (iii), which varies in any manner (other than in respect of the maturity date of the investment product) from any investment product which has been previously sold or marketed by the financial adviser or any representative thereof;

“targeted client”, in relation to a financial adviser which intends to sell or market a new product, means any client, other than an accredited investor, expert investor or institutional investor, to whom the financial adviser intends to sell or market the new product.

(10) Any financial adviser which, without reasonable excuse, contravenes this regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000.”.

Amendment of regulation 31

3. Regulation 31 of the Financial Advisers Regulations is amended —

(a) by inserting, immediately after the word “representative” in paragraph (8), the words “(other than a teller referred to in paragraph (8A))”;

(b) by inserting, immediately after paragraph (8), the following paragraph:

“(8A) A teller shall be exempt from holding a representative’s licence in respect of all introducing activities he carries out on behalf of a person exempt under section 23(1)(a), (b), (c), (d) or (e) of the Act (referred to in this paragraph as the person), subject to the following conditions:

(a) the introduction is done pursuant to an express request by the relevant client for information on investment products;

(b) the teller is not remunerated by the introducee or the person for carrying out introducing activities;

(c) in a case where the teller acts for the person when the person is carrying out introducing activities on its own behalf, the conditions specified in paragraph (2)(a)(i) and (iii) and (c) shall apply as if every reference in those conditions to introducer were a reference to the person; and

(d) in a case where the teller acts for the person when the person is carrying out introducing activities for one or more introducees, the conditions specified in paragraph (2)(a)(i), (ii) and (iii), (b) and (c) shall apply as if every reference in those conditions to introducer were a reference to the person.”; and

(c) by deleting the full-stop at the end of the definition of “introducing activity” in paragraph (12) and substituting

a semi-colon, and by inserting immediately thereafter the following definition:

“ “teller” means an individual counter staff of a person exempt under section 23(1)(a), (b), (c), (d) or (e) of the Act who deals with clients for non-investment transactions, including —

- (a) renewal of fixed deposits;
- (b) update of bank books or statements;
- (c) cash deposits; and
- (d) cash withdrawals.”.

*[G.N. Nos. S 76/2004; S 692/2004; S 362/2005; S 58/2007;
S 274/2008; S 716/2010]*

Made this 22nd day of July 2011.

RAVI MENON
*Managing Director,
Monetary Authority of Singapore.*

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