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SECURITIES AND FUTURES ACT
(CHAPTER 289)

SECURITIES AND FUTURES
(TRADE REPOSITORIES)
REGULATIONS 2013

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In exercise of the powers conferred by sections 46ZJ and 341 of the Securities and Futures Act, the Monetary Authority of Singapore hereby makes the following Regulations:

PART I
PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Securities and Futures (Trade Repositories) Regulations 2013 and shall come into operation on 1st August 2013.

Definitions

2.—(1) In these Regulations, unless the context otherwise requires —

“annual report” means the audited profit and loss accounts, audited balance-sheet and auditors’ report, however described;

“business day” has the same meaning as in section 4(1) of the Companies Act (Cap. 50).

(2) Any word or expression used in these Regulations which is defined in section 46B of the Act shall, unless the context otherwise requires, have the same meaning as in that section.

Forms

3.—(1) The forms to be used for the purposes of Part IIA of the Act and these Regulations are those set out at the Authority’s Internet website at <http://www.mas.gov.sg> (under “Regulations and Financial Stability”, “Regulations, Guidance and Licensing”, “Securities, Futures and Fund Management”), and any reference in these Regulations to a numbered form shall be construed as a reference to the current version of the form bearing the corresponding number which is displayed at that website and described in the First Schedule.

(2) Any document required to be lodged with the Authority under any provision of Part IIA of the Act or these Regulations shall be lodged in the relevant form and in the manner specified in the website referred to in paragraph (1), or in such other manner as the Authority may specify from time to time.

(3) All forms used for the purposes of Part IIA of the Act and these Regulations shall be completed in the English language and in accordance with such directions as may be specified in the form or by the Authority.

(4) The Authority may refuse to accept any form if —

- (a) it is not completed in accordance with this regulation; or
- (b) it is not accompanied by the relevant fee referred to in regulation 4.

(5) Where strict compliance with any form is not possible, the Authority may allow for the necessary modifications to be made to that form, or for the requirements of that form to be complied with in such other manner as the Authority thinks fit.

Fees

4.—(1) The fees specified in the Second Schedule shall be payable to the Authority for the purposes specified therein and, subject to section 46F(2) of the Act, shall not be refundable.

(2) Payment of fees may be effected, through such electronic funds transfer system as the Authority may designate from time to time, by directing the transfer of funds electronically from the bank account of the payer to a bank account designated by the Authority.

Keeping of books and other information

5. Every licensed trade repository and every licensed foreign trade repository shall ensure that all relevant books, and all transaction information, information reported to the licensed trade repository or licensed foreign trade repository (as the case may be) and other information as may be required by the Authority for the purposes of the Act, are kept —

- (a) in the case of any transaction information, until at least 5 years after the date of the expiry or termination of the contract, agreement or transaction to which the transaction information relates; or
- (b) in the case of any relevant book or any information other than transaction information, for a minimum of 5 years.

PART II
LICENSING OF TRADE REPOSITORIES

Application for licence

6. For the purposes of sections 46D(3) of the Act, an application for the grant of a trade repository licence or foreign trade repository licence shall be made in Form 1 and shall be lodged with the Authority together with —

- (a) Forms 2 and 3; and
- (b) each relevant annex and all relevant information specified in those Forms.

Minimum requirements for licence

7.—(1) For the purposes of section 46E(6) of the Act, the Authority shall not grant an applicant a trade repository licence, unless the applicant has demonstrated to the Authority's satisfaction that —

- (a) the applicant is able to meet the obligations of, and comply with the requirements imposed on, a licensed trade repository under the Act; and
- (b) the applicant is able to maintain a minimum base capital of at least \$10,000,000.

(2) For the purposes of section 46E(6) of the Act, the Authority shall not grant an applicant a foreign trade repository licence, unless the applicant has demonstrated to the Authority's satisfaction that the applicant is able to meet the obligations of, and comply with the requirements imposed on, a licensed foreign trade repository under the Act.

(3) In this regulation, “base capital”, in relation to an applicant, means the amount remaining after deducting any interim loss in the latest accounts of the applicant, and any dividend that has been declared since the latest accounts of the applicant, from the sum of the following items:

- (a) the paid-up ordinary share capital of the applicant in the latest accounts of the applicant;
- (b) the paid-up irredeemable and non-cumulative preference share capital of the applicant in the latest accounts of the applicant; and

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- (c) any unappropriated profit or loss in its latest audited accounts of the applicant.

Cancellation of trade repository licence or foreign trade repository licence

8. For the purposes of section 46G(2) of the Act, an application under section 46G(1) of the Act by a corporation to cancel its trade repository licence or foreign trade repository licence shall be made —

- (a) in writing; and
- (b) no later than 3 months before the date on which the corporation intends to cease operating as a licensed trade repository or licensed foreign trade repository, as the case may be.

PART III

REGULATION OF LICENSED TRADE REPOSITORIES

Division 1 — Obligations and Matters relating to Licensed Trade Repositories

Obligation to notify Authority of certain matters

9.—(1) For the purposes of section 46K(1)(f)(i) of the Act, a licensed trade repository shall, as soon as practicable after the occurrence of any of the following circumstances, give the Authority notice of the circumstance:

- (a) any civil or criminal legal proceeding instituted against the licensed trade repository, whether in Singapore or elsewhere;
- (b) any disciplinary action taken against the licensed trade repository by any regulatory authority, whether in Singapore or elsewhere, other than the Authority;
- (c) any change to the regulatory requirements imposed on the licensed trade repository by any regulatory authority, whether in Singapore or elsewhere, other than the Authority;
- (d) any disruption of or delay in, or any suspension or termination of any systems relating to, the reporting of transactions to or through the licensed trade repository in

its capacity as a licensed trade repository, including those resulting from any system failure.

(2) Where a circumstance referred to in paragraph (1)(a), (b) or (d) has occurred, the licensed trade repository shall, in addition to the notice required under paragraph (1), within 14 days after the occurrence of the circumstance or such longer period as the Authority may permit, submit a report to the Authority of the circumstances relating to the occurrence, the remedial actions taken at the time of the occurrence, and the subsequent follow-up actions that the licensed trade repository has taken or intends to take.

(3) A licensed trade repository shall, within a reasonable period of time prior to entering into negotiations to establish a linkage, arrangement or co-operative arrangement with a person (being a person establishing or operating any clearing facility, any market or any other trade repository), give the Authority notice of such intent to enter into negotiations.

(4) In paragraph (3), “co-operative arrangement” shall not include —

- (a) any joint development of products and services;
- (b) any joint marketing efforts between the licensed trade repository and the person referred to in that paragraph in promoting the services of any clearing facility, market or trade repository established or operated by the licensed trade repository or the person; or
- (c) any memorandum of understanding for the exchange of information.

Obligation to seek Authority’s approval

10.—(1) A licensed trade repository shall seek the approval of the Authority prior to commencing any linkage, arrangement or co-operative arrangement referred to in regulation 9(3).

(2) The Authority may grant its approval referred to in paragraph (1) subject to such conditions and restrictions as the Authority may think fit, and the licensed trade repository shall comply with those conditions and restrictions.

Obligation to submit periodic reports

11.—(1) For the purposes of section 46M of the Act, a licensed trade repository shall submit to the Authority —

- (a) within 3 months after the end of the financial year of the licensed trade repository or such longer period as the Authority may permit, a copy each of —
 - (i) the annual report and directors' report of the licensed trade repository, prepared in accordance with the provisions of the Companies Act (Cap. 50); and
 - (ii) the auditors' long form report of the licensed trade repository;
- (b) within 45 days after the end of each of the first 3 quarters of the financial year of the licensed trade repository or such longer period as the Authority may permit, a copy each, in such form as the Authority may approve, of —
 - (i) the profit and loss accounts of the licensed trade repository for the preceding quarter; and
 - (ii) the balance-sheet of the licensed trade repository for the preceding quarter;
- (c) within 3 months after the end of the financial year of the licensed trade repository or such longer period as the Authority may permit, a report on how the licensed trade repository has discharged its responsibilities under the Act during that financial year;
- (d) when required by the Authority, a report relating to the business of the licensed trade repository; and
- (e) when required by the Authority, such other report as the Authority may require for the proper administration of the Act.

(2) The auditors' long form report referred to in paragraph (1)(a)(ii) shall include the findings and recommendations of the auditors, if any, on —

- (a) the internal controls of the licensed trade repository; and
 - (b) any non-compliance by the licensed trade repository with —
 - (i) any provision of the Act;
 - (ii) any direction issued by the Authority under the Act;
- or

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- (iii) any other relevant written law.

Exceptions to obligation to maintain confidentiality

12.—(1) For the purposes of section 46O(2) of the Act, section 46O(1) of the Act shall not apply to the disclosure of user information by a licensed trade repository or its officers or employees for the following purposes or in the following circumstances:

- (a) the disclosure of user information is necessary for the making of a complaint or report under any written law for an offence alleged or suspected to have been committed under such written law;
- (b) the disclosure of user information is permitted for such purpose specified in writing by the user or, where the user is deceased, by his appointed personal representative;
- (c) the disclosure of user information is made in connection with —
 - (i) the outsourcing or proposed outsourcing of any function of the licensed trade repository to a third party;
 - (ii) the engagement or potential engagement of a third party by the licensed trade repository to create, install or maintain systems of the licensed trade repository; or
 - (iii) the appointment or engagement of an auditor, a lawyer, a consultant or any other professional by the licensed trade repository under a contract for service;
- (d) the disclosure of user information is necessary for, or is required by the Public Trustee or the Commissioner of Estate Duties in the course of —
 - (i) an application for a grant of probate or letters of administration or the resealing thereof in relation to the estate of a deceased user; or
 - (ii) the administration of the estate of a deceased user; or
- (e) the disclosure of user information is made in connection with —
 - (i) the bankruptcy of a user who is an individual; or

(ii) the winding up or receivership of a user which is a body corporate.

(2) Where user information is disclosed under paragraph (1)(c), the licensed trade repository shall —

(a) maintain, and make available for inspection by the Authority, a record of —

(i) the circumstances relating to the disclosure of the user information; and

(ii) the particulars of —

(A) in the case of a disclosure of user information under paragraph (1)(c)(i), the outsourcing or proposed outsourcing of the function of the licensed trade repository;

(B) in the case of a disclosure of user information under paragraph (1)(c)(ii), the engagement or potential engagement of the third party; or

(C) in the case of a disclosure of user information under paragraph (1)(c)(iii), the appointment or engagement of the auditor, lawyer, consultant or other professional;

(b) disclose the user information only insofar as this is necessary for the relevant purpose; and

(c) take reasonable steps to ensure that —

(i) the user information disclosed is used by the person to whom the disclosure is made strictly for the relevant purpose; and

(ii) the user information is not disclosed by that person to any other person, except with the consent of the licensed trade repository.

(3) Where the disclosure to a body corporate of user information is permitted for any purpose or in any circumstance under paragraph (1), the user information may be disclosed only to those officers of the body corporate to whom the disclosure is necessary for the relevant purpose.

(4) In paragraphs (2) and (3), “relevant purpose” means —

(a) in the case of a disclosure of user information under paragraph (1)(c)(i), facilitating the outsourcing or proposed outsourcing of the function of the licensed trade repository;

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- (b) in the case of a disclosure of user information under paragraph (1)(c)(ii), facilitating the engagement or potential engagement of the third party; and
 - (c) in the case of a disclosure of user information under paragraph (1)(c)(iii), facilitating the appointment or engagement of the auditor, lawyer, consultant or other professional.

(5) For the purposes of section 46O(2) of the Act, section 46O(1) of the Act shall not apply to the disclosure of transaction information by a licensed trade repository or its officers or employees for the following purposes or in the following circumstances:

- (a) the disclosure of transaction information is necessary for the making of a complaint or report under any written law for an offence alleged or suspected to have been committed under such written law;
- (b) the disclosure of transaction information is permitted for such purpose specified in writing by a user to whom the transaction relates or, where the user is deceased, by his appointed personal representative;
- (c) the disclosure is such disclosure of transaction information as the Authority may specify in directions to the licensed trade repository;
- (d) the disclosure of transaction information is made in connection with —
 - (i) the outsourcing or proposed outsourcing of any function of the licensed trade repository to a third party;
 - (ii) the engagement or potential engagement of a third party by the licensed trade repository to create, install or maintain systems of the licensed trade repository; or
 - (iii) the appointment or engagement of an auditor, a lawyer, a consultant or any other professional by the licensed trade repository under a contract for service;
- (e) the disclosure of transaction information is necessary for, or is required by the Public Trustee or the Commissioner of Estate Duties in the course of —

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- (i) an application for a grant of probate or letters of administration or the resealing thereof in relation to the estate of a deceased user; or
 - (ii) the administration of the estate of a deceased user;
- (f) the disclosure of transaction information is made in connection with —
- (i) the bankruptcy of a user who is an individual; or
 - (ii) the winding up or receivership of a user which is a body corporate; or
- (g) the disclosure is a disclosure of aggregated transaction information on the Internet website of the licensed trade repository or on any medium which is accessible to every member of the public.
- (6) Where transaction information is disclosed under paragraph (5)(d), the licensed trade repository shall —
- (a) maintain, and make available for inspection by the Authority, a record of —
 - (i) the circumstances relating to the disclosure of transaction information; and
 - (ii) the particulars of —
 - (A) in the case of a disclosure of transaction information under paragraph (5)(d)(i), the outsourcing or proposed outsourcing of the function of the licensed trade repository;
 - (B) in the case of a disclosure of transaction information under paragraph (5)(d)(ii), the engagement or potential engagement of the third party; or
 - (C) in the case of a disclosure of transaction information under paragraph (5)(d)(iii), the appointment or engagement of the auditor, lawyer, consultant or other professional;
 - (b) disclose the transaction information only insofar as this is necessary for the relevant purpose; and
 - (c) take reasonable steps to ensure that —
 - (i) the transaction information disclosed is used by the person to whom the disclosure is made strictly for the relevant purpose; and

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- (ii) the transaction information is not disclosed by that person to any other person, except with the consent of the licensed trade repository.

(7) Where the disclosure to a body corporate of transaction information is permitted for any purpose or in any circumstance under paragraph (5), the transaction information may be disclosed only to those officers of the body corporate to whom the disclosure is necessary for the relevant purpose.

- (8) In paragraphs (6) and (7), “relevant purpose” means —
- (a) in the case of a disclosure of transaction information under paragraph (5)(d)(i), facilitating the outsourcing or proposed outsourcing of the function of the licensed trade repository;
 - (b) in the case of a disclosure of transaction information under paragraph (5)(d)(ii), facilitating the engagement or potential engagement of the third party; and
 - (c) in the case of a disclosure of transaction information under paragraph (5)(d)(iii), facilitating the appointment or engagement of the auditor, lawyer, consultant or other professional.

Business continuity plan

13.—(1) A licensed trade repository shall maintain at all times a plan of action (referred to in this regulation as a business continuity plan) setting out the procedures and establishing the systems necessary to restore, in the event of any disruption to the operations of the licensed trade repository, safe and efficient operations of the licensed trade repository.

(2) A licensed trade repository shall review and test the procedures and systems referred to in paragraph (1) on such regular basis as may be specified in the business continuity plan.

(3) A licensed trade repository shall immediately notify the Authority of any activation of its business continuity plan and of any action taken or intended to be taken to restore safe and efficient operations of the licensed trade repository.

(4) A licensed trade repository shall, within 14 days or such longer period as may be permitted by the Authority, inform the Authority of any material change to the business continuity plan and shall, if

requested by the Authority, submit a copy of the new or amended plan to the Authority.

Recovery and resolution plan

14.—(1) A licensed trade repository shall maintain at all times a plan of action (referred to in this regulation as a recovery and resolution plan) setting out the procedures and establishing the systems necessary, in the event of financial pressures or stress —

- (a) to restore the ability of the licensed trade repository to operate as a going concern; and
- (b) to ensure the orderly winding up of the licensed trade repository.

(2) A licensed trade repository shall review the procedures and systems referred to in paragraph (1) on such regular basis as may be specified in the recovery and resolution plan.

Provision of information

15. A licensed trade repository shall make available to any person upon his request, or publish in a manner that is accessible, information on —

- (a) all services of the licensed trade repository;
- (b) all products that may be reported to the licensed trade repository; and
- (c) the applicable fees and charges of the licensed trade repository.

Transmission and storage of information

16.—(1) A licensed trade repository shall set out the procedures and establish the systems necessary to maintain the integrity and security of the transmission and storage of all information (including user information and transaction information) reported to the licensed trade repository.

(2) A licensed trade repository shall review the procedures and systems referred to in paragraph (1) on such regular basis as may be specified in those procedures.

(3) A licensed trade repository shall immediately notify the Authority of —

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- (a) any compromise of the integrity or security of the transmission or storage of any information reported to the licensed trade repository; and
 - (b) any action taken or intended to be taken to restore safe and efficient operations of the licensed trade repository.

Regulation of reporting fees of specified licensed trade repository

17.—(1) A licensed trade repository specified in Part I of the Third Schedule shall not, without the prior approval of the Authority under paragraph (4) —

- (a) impose any reporting fee on its participants in respect of any service or services provided by the licensed trade repository; or
- (b) modify, restructure or otherwise change any existing reporting fee imposed on its participants.

(2) An application to the Authority for approval under paragraph (4) shall be made in Form 4.

(3) Where a licensed trade repository has made an application under paragraph (2), the Authority may require the licensed trade repository to furnish the Authority with such information or documents as the Authority considers necessary in relation to the application, and the licensed trade repository shall comply with that requirement.

(4) The Authority shall, within 20 business days after receiving a completed application under paragraph (2), by notice in writing to the licensed trade repository, either grant the approval or notify the licensed trade repository of the Authority's intention to refuse to grant the approval.

(5) The Authority may, by notice in writing to the licensed trade repository, extend the period referred to in paragraph (4) —

- (a) in the first instance, to a period of up to 35 business days after receiving the completed application under paragraph (2); or
- (b) upon the expiry of the period referred to in sub-paragraph (a), for such further period as the Authority thinks fit.

(6) Before the Authority extends under paragraph (5)(b) the period referred to in paragraph (4), the Authority shall give the licensed trade repository an opportunity to be heard.

(7) In deciding whether to grant or refuse approval under paragraph (4), the Authority may have regard to the following matters:

- (a) the effect of the proposed imposition of or change in the reporting fee on —
 - (i) competition in the financial services industry of Singapore; and
 - (ii) access to reporting services in Singapore;
- (b) the cost of providing the service to which the proposed imposition or change applies;
- (c) the effect of the proposed imposition or change on the cost and efficiency of trading, clearing, settlement and reporting in Singapore of the securities, futures contracts or derivatives contracts specified in Part II of the Third Schedule; and
- (d) the effect of the proposed imposition or change on the objectives of the Authority as specified in section 4(1)(b) of the Monetary Authority of Singapore Act (Cap. 186).

(8) The Authority may grant its approval under paragraph (4) subject to such conditions or restrictions as the Authority may think fit to impose by notice in writing to the licensed trade repository, including conditions or restrictions relating to —

- (a) the period for which the approval of a reporting fee will be in force;
- (b) the circumstances under which, or date by which, upon the expiry of the period referred to in sub-paragraph (a), the licensed trade repository will be required to submit another application under paragraph (2) for approval of the reporting fee; and
- (c) the circumstances under which, or the changes in the reporting fee for which, upon the expiry of the period referred to in sub-paragraph (a), the licensed trade repository will not be required to submit another application under paragraph (2) for approval of a change in the reporting fee.

(9) The Authority shall not refuse to grant its approval under paragraph (4) without giving the licensed trade repository an opportunity to be heard.

(10) A licensed trade repository may only charge a reporting fee approved by the Authority under paragraph (4) for the service or services in respect of which that fee was approved.

(11) In this regulation, “reporting fee” means any fee, tariff or compensation for reporting of transactions in the securities, futures contracts or derivatives contracts specified in Part II of the Third Schedule.

*Division 2 — Business Rules of
Licensed Trade Repositories*

Content of business rules of licensed trade repository

18. For the purposes of section 46Q(1)(a) of the Act, a licensed trade repository shall make provision in its business rules, to the satisfaction of the Authority, for —

- (a) the criteria that the licensed trade repository would use to determine whether a person should or should not be allowed to participate in the services provided by the licensed trade repository;
- (b) the continuing requirements to be satisfied by each participant in the services provided by the licensed trade repository, including requirements relating to the operational condition of the participant (such as providing reasonable assurance that the participant is able to report all transactions to the licensed trade repository accurately and on time); and
- (c) the carrying on of business of the licensed trade repository with due regard to the interests and protection of the investing public.

Amendment of business rules

19.—(1) For the purposes of section 46Q(2) of the Act, a licensed trade repository which proposes to amend its business rules shall, prior to making the amendment, notify the Authority of —

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- (a) the proposed amendment;
 - (b) the purpose of the proposed amendment; and
 - (c) the date on which the licensed trade repository proposes that the amendment be brought into force.

(2) The licensed trade repository shall, prior to notifying the Authority of the matters referred to in paragraph (1)(a), (b) and (c), consult the participants of the licensed trade repository on the proposed amendment, unless the proposed amendment would have limited impact on those participants.

(3) Subject to paragraphs (4) and (6), the date referred to in paragraph (1)(c) shall be at least 21 days after the date on which the Authority receives the notification referred to in paragraph (1).

(4) The Authority may, on its own initiative or on the application of the licensed trade repository, by notice in writing to the licensed trade repository, allow an amendment under paragraph (1) to come into force less than 21 days after the date on which the Authority receives the notification referred to in paragraph (1).

(5) Subject to paragraph (6), the Authority may, within 21 days after receiving the notification referred to in paragraph (1), by notice in writing to the licensed trade repository, disallow, alter or supplement the whole or any part of a proposed amendment under paragraph (1), and, thereupon, such whole or part of the proposed amendment, as the case may be —

- (a) where it is disallowed, shall not come into force; or
- (b) where it is altered or supplemented, shall come into force, on such date as the Authority may specify in the notice in writing, as altered or supplemented.

(6) The Authority may, on its own initiative, by notice in writing to the licensed trade repository, vary the period specified in paragraph (5), and where that period is extended, the amendment under paragraph (1) or the altered or supplemented agreement under paragraph (5), as the case may be, shall not come into force before the expiry of the extended period.

Division 3 — Matters requiring Approval of Authority

Application and criteria for approval to acquire substantial shareholding

20.—(1) Any person applying for approval under section 46U(1) or (2) of the Act shall submit to the Authority a written application that sets out —

- (a) the name of the applicant;
- (b) where the applicant is a corporation —
 - (i) its place of incorporation;
 - (ii) its substantial shareholders;
 - (iii) its directors and chief executive officer; and
 - (iv) its principal business;
- (c) where the applicant is an individual —
 - (i) his nationality;
 - (ii) his principal occupation; and
 - (iii) his directorships;
- (d) all the corporations in which the applicant has a substantial shareholding;
- (e) the percentage of shareholding and voting power that the applicant has in the licensed trade repository;
- (f) the percentage of shareholding and voting power the applicant is seeking to have in the licensed trade repository;
- (g) the reasons for making the application;
- (h) the mode and structure, as appropriate, under which the increase in shareholding would be carried out;
- (i) whether the applicant will seek representation on the board of directors of the licensed trade repository; and
- (j) any other information that may facilitate the determination of the Authority as to whether the applicant is a fit and proper person for the purposes of paragraph (3)(a).

(2) Where an application under paragraph (1) has been made, the Authority may require the applicant to furnish the Authority with such information or documents as the Authority considers necessary in relation to the application, and the applicant shall comply with that requirement.

(3) The Authority may grant its approval referred to in section 46U(1) or (2) of the Act if the Authority is satisfied that —

- (a) the applicant is a fit and proper person to be a substantial shareholder, 12% controller or 20% controller (as the case may be) of the licensed trade repository;
- (b) having regard to the applicant’s likely influence, the licensed trade repository will, or will continue to, conduct its business prudently and in compliance with the provisions of the Act; and
- (c) it would not be contrary to the interests of the public to do so.

(4) In paragraph (3), “12% controller” and “20% controller” have the same meanings as in section 46U(3) of the Act.

Application for approval of chairman, chief executive officer, director and key persons

21.—(1) For the purposes of section 46V(3) of the Act, a licensed trade repository may apply for approval under section 46V(1) or (2) of the Act by submitting Form 5 to the Authority.

(2) Where a licensed trade repository has made an application under paragraph (1), the Authority may require the licensed trade repository to furnish the Authority with such information or documents as the Authority considers necessary in relation to the application, and the licensed trade repository shall comply with that requirement.

Criteria for approval of chairman, chief executive officer, director and key persons

22. For the purposes of section 46V(4) of the Act, the Authority may have regard to the following matters in determining whether to approve or refuse to approve the appointment of a person under section 46V(1) or (2) of the Act:

- (a) whether the person is fit and proper to be so appointed;
- (b) whether the appointment of the person would be consistent with any applicable written law relating to —
 - (i) the qualifications for the position; or

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- (ii) the requirements for the composition of the board of directors or any committee of the licensed trade repository;
 - (c) whether it would be contrary to the interests of the public to approve the appointment of the person.

Division 4 — Powers of Authority

Criteria for determining whether officer failed to discharge duties or functions

23. For the purposes of section 46Z(2) of the Act, the Authority may, in determining whether a chairman, chief executive officer or director of a licensed trade repository, or any person referred to in section 46V(2) of the Act who is appointed to any key management position or committee of a licensed trade repository, has failed to discharge the duties or functions of his office or employment, have regard to whether that chairman, chief executive officer, director or person has taken reasonable steps to discharge the following duties:

- (a) ensure the proper functioning of the licensed trade repository;
- (b) ensure the compliance of the licensed trade repository with all relevant legislation (including instruments, however described, having legislative effect) of any jurisdiction in which it operates;
- (c) set out and ensure compliance with written policies on all operational areas of the licensed trade repository, including its financial policies, accounting and internal controls, internal auditing and compliance with all legislation (including instruments, however described, having legislative effect), whether of Singapore or of any other jurisdiction in which it is incorporated or in which it operates, and all business rules, governing its operations;
- (d) identify, monitor and address the risks associated with the business activities of the licensed trade repository;
- (e) ensure that the business activities of the licensed trade repository are subject to adequate internal audit;
- (f) oversee the financial undertakings and exposure (to risks of any nature) of the licensed trade repository, by setting

out proper delegation limits and risk management controls;
and

- (g) ensure —
- (i) that the licensed trade repository maintains written records of the steps taken by it to monitor compliance with its policies, the limits on discretionary powers and its accounting and operating procedures; and
 - (ii) that every report, return or statement submitted by the licensed trade repository to the Authority is complete and accurate.

PART IV
REGULATION OF
LICENSED FOREIGN TRADE REPOSITORIES

Obligation to notify Authority of certain matters

24. For the purposes of section 46ZD(c)(i) of the Act, a licensed foreign trade repository shall, as soon as practicable after the occurrence of any of the following circumstances, give the Authority notice of such circumstance:

- (a) any civil or criminal legal proceeding instituted against the licensed foreign trade repository, whether in Singapore or elsewhere, which may have a material impact on the operations or finances of the licensed foreign trade repository;
- (b) any disciplinary action taken against the licensed foreign trade repository by any regulatory authority, whether in Singapore or elsewhere, other than the Authority;
- (c) any material change to the regulatory requirements imposed on the licensed foreign trade repository by any regulatory authority, whether in Singapore or elsewhere, other than the Authority;
- (d) any material disruption of or delay in, or any suspension or termination of any systems relating to, the reporting of transactions to and through the licensed foreign trade repository in its capacity as a licensed foreign trade repository, including those resulting from any system failure;

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- (e) the licensed foreign trade repository becoming aware of any acquisition or disposal by any person of a substantial shareholding in the licensed foreign trade repository.

Obligation to submit periodic reports

25. For the purposes of section 46ZF of the Act, a licensed foreign trade repository shall submit to the Authority —

- (a) within 3 months after the end of the financial year of the licensed foreign trade repository or such longer period as the Authority may permit, a copy of the annual report of the licensed foreign trade repository;
- (b) when required by the Authority, a report relating to the business of the licensed foreign trade repository; and
- (c) when required by the Authority, such other report as the Authority may require for the proper administration of the Act.

Exceptions to obligation to maintain confidentiality

26.—(1) For the purposes of section 46ZH(2) of the Act, section 46ZH(1) of the Act shall not apply to the disclosure of user information by a licensed foreign trade repository or its officers or employees for the following purposes or in the following circumstances:

- (a) the disclosure of user information is necessary for the making of a complaint or report under any written law for an offence alleged or suspected to have been committed under such written law;
- (b) the disclosure of user information is permitted for such purpose specified in writing by the user or, where the user is deceased, by his appointed personal representative;
- (c) the disclosure of user information is made in connection with —
 - (i) the outsourcing or proposed outsourcing of any function of the licensed foreign trade repository to a third party;
 - (ii) the engagement or potential engagement of a third party by the licensed foreign trade repository to create, install or maintain systems of the licensed foreign trade repository; or

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- (iii) the appointment or engagement of an auditor, a lawyer, a consultant or any other professional by the licensed foreign trade repository under a contract for service;
 - (d) the disclosure of user information is necessary for, or is required by the Public Trustee or the Commissioner of Estate Duties in the course of —
 - (i) an application for a grant of probate or letters of administration or the resealing thereof in relation to the estate of a deceased user; or
 - (ii) the administration of the estate of a deceased user;
or
 - (e) the disclosure of user information is made in connection with —
 - (i) the bankruptcy of a user who is an individual; or
 - (ii) the winding up or receivership of a user which is a body corporate.
- (2) Where user information is disclosed under paragraph (1)(c), the licensed foreign trade repository shall —
- (a) maintain, and make available for inspection by the Authority, a record of —
 - (i) the circumstances relating to the disclosure of the user information; and
 - (ii) the particulars of —
 - (A) in the case of a disclosure of user information under paragraph (1)(c)(i), the outsourcing or proposed outsourcing of the function of the licensed foreign trade repository;
 - (B) in the case of a disclosure of user information under paragraph (1)(c)(ii), the engagement or potential engagement of the third party; or
 - (C) in the case of a disclosure of user information under paragraph (1)(c)(iii), the appointment or engagement of the auditor, lawyer, consultant or other professional;
 - (b) disclose the user information only insofar as this is necessary for the relevant purpose; and

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- (c) take reasonable steps to ensure that —
- (i) the user information disclosed is used by the person to whom the disclosure is made strictly for the relevant purpose; and
 - (ii) the user information is not disclosed by that person to any other person, except with the consent of the licensed foreign trade repository.

(3) Where the disclosure to a body corporate of user information is permitted for any purpose or in any circumstance under paragraph (1), the user information may be disclosed only to those officers of the body corporate to whom the disclosure is necessary for the relevant purpose.

(4) In paragraphs (2) and (3), “relevant purpose” means —

- (a) in the case of a disclosure of user information under paragraph (1)(c)(i), facilitating the outsourcing or proposed outsourcing of the function of the licensed foreign trade repository;
- (b) in the case of a disclosure of user information under paragraph (1)(c)(ii), facilitating the engagement or potential engagement of the third party; and
- (c) in the case of a disclosure of user information under paragraph (1)(c)(iii), facilitating the appointment or engagement of the auditor, lawyer, consultant or other professional.

(5) For the purposes of section 46ZH(2) of the Act, section 46ZH(1) of the Act shall not apply to the disclosure of transaction information by a licensed foreign trade repository or its officers or employees for the following purposes or in the following circumstances:

- (a) the disclosure of transaction information is necessary for the making of a complaint or report under any written law for an offence alleged or suspected to have been committed under such written law;
- (b) the disclosure of transaction information is permitted for such purpose specified in writing by a user to whom the transaction relates or, where the user is deceased, by his appointed personal representative;

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- (c) the disclosure is such disclosure of transaction information as the Authority may specify in directions to the licensed foreign trade repository;
 - (d) the disclosure of transaction information is made in connection with —
 - (i) the outsourcing or proposed outsourcing of any function of the licensed foreign trade repository to a third party;
 - (ii) the engagement or potential engagement of a third party by the licensed foreign trade repository to create, install or maintain systems of the licensed foreign trade repository; or
 - (iii) the appointment or engagement of an auditor, a lawyer, a consultant or any other professional by the licensed foreign trade repository under a contract for service;
 - (e) the disclosure of transaction information is necessary for, or is required by the Public Trustee or the Commissioner of Estate Duties in the course of —
 - (i) an application for a grant of probate or letters of administration or the resealing thereof in relation to the estate of a deceased user; or
 - (ii) the administration of the estate of a deceased user;
 - (f) the disclosure of transaction information is made in connection with —
 - (i) the bankruptcy of a user who is an individual; or
 - (ii) the winding up or receivership of a user which is a body corporate;
 - (g) the disclosure is a disclosure of aggregated transaction information on the Internet website of the licensed foreign trade repository or on any medium which is accessible to every member of the public.
- (6) Where transaction information is disclosed under paragraph (5)(d), the licensed foreign trade repository shall —
- (a) maintain, and make available for inspection by the Authority, a record of —
 - (i) the circumstances relating to the disclosure of transaction information; and

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- (ii) the particulars of —
 - (A) in the case of a disclosure of transaction information under paragraph (5)(d)(i), the outsourcing or proposed outsourcing of the function of the licensed foreign trade repository;
 - (B) in the case of a disclosure of transaction information under paragraph (5)(d)(ii), the engagement or potential engagement of the third party; or
 - (C) in the case of a disclosure of transaction information under paragraph (5)(d)(iii), the appointment or engagement of the auditor, lawyer, consultant or other professional;
 - (b) disclose the transaction information only insofar as this is necessary for the relevant purpose; and
 - (c) take reasonable steps to ensure that —
 - (i) the transaction information disclosed is used by the person to whom the disclosure is made strictly for the relevant purpose; and
 - (ii) the transaction information is not disclosed by that person to any other person, except with the consent of the licensed foreign trade repository.

(7) Where the disclosure to a body corporate of transaction information is permitted for any purpose or in any circumstance under paragraph (1), the transaction information may be disclosed only to those officers of the body corporate to whom the disclosure is necessary for the relevant purpose.

- (8) In paragraphs (6) and (7), “relevant purpose” means —
- (a) in the case of a disclosure of transaction information under paragraph (5)(d)(i), facilitating the outsourcing or proposed outsourcing of the function of the licensed foreign trade repository;
 - (b) in the case of a disclosure of transaction information under paragraph (5)(d)(ii), facilitating the engagement or potential engagement of the third party; and
 - (c) in the case of a disclosure of transaction information under paragraph (5)(d)(iii), facilitating the appointment

or engagement of the auditor, lawyer, consultant or other professional.

Business continuity plan

27.—(1) A licensed foreign trade repository shall maintain at all times a plan of action (referred to in this regulation as a business continuity plan) setting out the procedures and establishing the systems necessary to restore, in the event of any disruption to the operations of the licensed foreign trade repository, safe and efficient operations of the licensed foreign trade repository.

(2) A licensed foreign trade repository shall review and test the procedures and systems referred to in paragraph (1) on such regular basis as may be specified in the business continuity plan.

Provision of information

28. A licensed foreign trade repository shall make available to any person upon his request, or publish in a manner that is accessible, information on —

- (a) all services of the licensed foreign trade repository;
- (b) all products that may be reported to the licensed foreign trade repository; and
- (c) the applicable fees and charges of the licensed foreign trade repository.

Transmission and storage of information

29.—(1) A licensed foreign trade repository shall set out the procedures and establish the systems necessary to maintain the integrity and security of the transmission and storage of all information (including user information and transaction information) reported to the licensed foreign trade repository.

(2) A licensed foreign trade repository shall review the procedures and systems referred to in paragraph (1) on such regular basis as may be specified in those procedures.

(3) A licensed foreign trade repository shall immediately notify the Authority of —

- (a) any compromise of the integrity or security of the transmission or storage of any information reported to the licensed foreign trade repository; and

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- (b) any action taken or intended to be taken to restore safe and efficient operations of the licensed foreign trade repository.

Regulation of reporting fees of specified licensed foreign trade repository

30.—(1) A licensed foreign trade repository specified in Part I of the Third Schedule shall not, without the prior approval of the Authority under paragraph (4) —

- (a) impose any reporting fee on its participants in respect of any service or services provided by the licensed foreign trade repository; or
- (b) modify, restructure or otherwise change any existing reporting fee imposed on its participants.

(2) An application to the Authority for approval under paragraph (4) shall be made in Form 4.

(3) Where a licensed foreign trade repository has made an application under paragraph (2), the Authority may require the licensed foreign trade repository to furnish the Authority with such information or documents as the Authority considers necessary in relation to the application, and the licensed foreign trade repository shall comply with that requirement.

(4) The Authority shall, within 20 business days after receiving a completed application under paragraph (2), by notice in writing to the licensed foreign trade repository, either grant the approval or notify the licensed foreign trade repository of the Authority's intention to refuse to grant the approval.

(5) The Authority may, by notice in writing to the licensed foreign trade repository, extend the period referred to in paragraph (4) —

- (a) in the first instance, to a period of up to 35 business days after receiving the completed application under paragraph (2); or
- (b) upon the expiry of the period referred to in sub-paragraph (a), for such further period as the Authority thinks fit.

(6) Before the Authority extends under paragraph (5)(b) the period referred to in paragraph (4), the Authority shall give the licensed foreign trade repository an opportunity to be heard.

(7) In deciding whether to grant or refuse approval under paragraph (4), the Authority may have regard to the following matters:

- (a) the effect of the proposed imposition of or change in the reporting fee on —
 - (i) competition in the financial services industry of Singapore; and
 - (ii) access to reporting services in Singapore;
- (b) the cost of providing the service to which the proposed imposition or change applies;
- (c) the effect of the proposed imposition or change on the cost and efficiency of trading, clearing, settlement and reporting in Singapore of the securities, futures contracts or derivatives contracts specified in Part II of the Third Schedule; and
- (d) the effect of the proposed imposition or change on the objectives of the Authority as specified in section 4(1)(b) of the Monetary Authority of Singapore Act (Cap. 186).

(8) The Authority may grant its approval under paragraph (4) subject to such conditions or restrictions as the Authority may think fit to impose by notice in writing to the licensed foreign trade repository, including conditions or restrictions relating to —

- (a) the period for which the approval of a reporting fee will be in force;
- (b) the circumstances under which, or date by which, upon the expiry of the period referred to in sub-paragraph (a), the licensed foreign trade repository will be required to submit another application under paragraph (2) for approval of the reporting fee; and
- (c) the circumstances under which, or the changes in the reporting fee for which, upon the expiry of the period referred to in sub-paragraph (a), the licensed foreign trade repository will not be required to submit another application under paragraph (2) for approval of a change in the reporting fee.

(9) The Authority shall not refuse to grant its approval under paragraph (4) without giving the licensed foreign trade repository an opportunity to be heard.

(10) A licensed foreign trade repository may only charge a reporting fee approved by the Authority under paragraph (4) for the service or services in respect of which that fee was approved.

(11) In this regulation, “reporting fee” means any fee, tariff or compensation for reporting of transactions in the securities, futures contracts or derivatives contracts specified in Part II of the Third Schedule.

PART V MISCELLANEOUS

Offences

31.—(1) Unless otherwise provided in these Regulations, any corporation which contravenes regulation 5, 9(2), 10, 12(2), 13, 14, 15, 16, 17(1), (3) or (10), 21(2), 24, 26(2), 27, 28, 29 or 30(1), (3) or (10) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.

(2) Section 333(1) of the Act shall not apply to any offence referred to in paragraph (1).

FIRST SCHEDULE

Regulation 3(1)

DESCRIPTION OF FORMS

<i>Form</i>	<i>Description of Form</i>
1	Application for trade repository licence or foreign trade repository licence
2	Information on chief executive officer and directors
3	Information on shareholders and subsidiaries
4	Application to impose or change reporting fee
5	Application for approval for appointment of chairman, chief executive officer, director or key person

SECOND SCHEDULE

Regulation 4(1)

FEES

	<i>First column</i>	<i>Second column</i>
1.	For every application for the grant of a trade repository licence or foreign trade repository licence under section 46D(1) or (2) of the Act	\$4,000
2.	Annual fee under section 46F(1) of the Act for every licensed trade repository or licensed foreign trade repository	\$10,000
3.	For every application for approval to acquire a substantial shareholding in, or to become a 12% controller or 20% controller of, a licensed trade repository under section 46U(1) or (2) of the Act	\$500

THIRD SCHEDULE

Regulations 17(1), (7) and (11)
and 30(1), (7) and (11)

REGULATION OF REPORTING FEES

PART I

SPECIFIED LICENSED TRADE REPOSITORIES AND
LICENSED FOREIGN TRADE REPOSITORIES

1. There is no licensed trade repository specified for the purposes of regulation 17(1).

2. There is no licensed foreign trade repository specified for the purposes of regulation 30(1).

PART II
SPECIFIED SECURITIES, FUTURES CONTRACTS
OR DERIVATIVES CONTRACTS

1. There are no securities, futures contracts or derivatives contracts specified for the purposes of regulation 17(7)(c) and (11).
2. There are no securities, futures contracts or derivatives contracts specified for the purposes of regulation 30(7)(c) and (11).

Made this 23rd day of July 2013.

RAVI MENON
Managing Director,
Monetary Authority of Singapore.

[CMD/MCP/02/2012; AG/LLRD/SL/289/2010/22 Vol. 1]