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First published in the *Government Gazette*, Electronic Edition, on 5 October 2018 at 7 pm.

**No. S 659**

FINANCIAL ADVISERS ACT  
(CHAPTER 110)

FINANCIAL ADVISERS  
(AMENDMENT NO. 4)  
REGULATIONS 2018

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. These Regulations are the Financial Advisers (Amendment No. 4) Regulations 2018 and come into operation on 8 October 2018.

**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 “advertisement”, the following definition:

““approved exchange” has the same meaning as in section 2(1) of the Securities and Futures Act (Cap. 289);”;

(b) by inserting, immediately after the definition of “client’s money or property”, the following definition:

““derivatives contract” has the same meaning as in section 2(1) of the Securities and Futures Act;”;

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

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““exchange-traded derivatives contract” has the same meaning as in section 2(1) of the Securities and Futures Act;”;

(d) by deleting the definition of “foreign exchange trading” and substituting the following definitions:

““foreign exchange OTC derivatives contract” means an OTC derivatives contract entered into on a margin basis the value of which is determined by reference to, is derived from, or varies by reference to —

(a) the value or amount of any currency or currency index; or

(b) fluctuations in the values or amounts of any currency or currency index;

“futures contract” has the same meaning as in section 2(1) of the Securities and Futures Act;”;

(e) by inserting, immediately after the definition of “institutional investor”, the following definition:

““leveraged foreign exchange trading” has the same meaning as in section 2(1) of the Securities and Futures Act;”;

(f) by inserting, immediately after the definition of “net head office funds”, the following definitions:

““on a margin basis”, in relation to a contract, means the entering of a contract by 2 parties where one party provides to the other party (whether directly or indirectly through such party’s agent) with money, securities, property or other collateral which represents only a part of the value of the contract;

““over-the-counter derivatives contract” or “OTC derivatives contract” means a derivatives

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contract other than an exchange-traded derivatives contract;

“overseas exchange” has the same meaning as in section 2(1) of the Securities and Futures Act;”;

(g) by deleting the definition of “Registered Fund Management Company”;

(h) by inserting, immediately after the definition of “specified financial adviser”, the following definitions:

““specified investment product” means —

(a) any specified OTC derivatives contract;

(b) any foreign exchange OTC derivatives contract arranged by any bank that is licensed under the Banking Act (Cap. 19) or any merchant bank that is approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186); or

(c) any spot foreign exchange contract for the purposes of leveraged foreign exchange trading arranged by any bank that is licensed under the Banking Act or any merchant bank that is approved as a financial institution under the Monetary Authority of Singapore Act;

“specified OTC derivatives contract” means an OTC derivatives contract the value of which is determined by reference to, is derived from, or varies by reference to —

(a) the value or amount of any item other than any —

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- (i) securities;
  - (ii) securities index;
  - (iii) currency; or
  - (iv) currency index; or
- (b) fluctuations in the values or amounts of one or more items other than any —
- (i) securities;
  - (ii) securities index;
  - (iii) currency; or
  - (iv) currency index;”;
- (i) by inserting, immediately after the definition of “specified person”, the following definitions:
- ““specified products” has the same meaning as in section 2(1) of the Securities and Futures Act;
  - “spot foreign exchange contract” has the same meaning as in section 2(1) of the Securities and Futures Act;”;
  - and
- (j) by deleting the words “of securities” in the definition of “venture capital fund manager” and substituting the words “of specified products”.

#### **Amendment of regulation 4**

3. Regulation 4(1) of the principal Regulations is amended by deleting the words “(under “Regulations and Financial Stability”, “Regulations, Guidance and Licensing”, “Financial Advisers”)”.

#### **Amendment of regulation 8A**

4. Regulation 8A of the principal Regulations is amended by deleting paragraph (a) and substituting the following paragraph:

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“(a) before the end of the period of 6 months (or such longer period as the Authority may allow in any particular case) starting on the date on which the individual’s name was entered in the public register of representatives as an appointed representative, the appointed representative has not commenced to act as a representative in at least one of the financial advisory services that the individual was appointed to provide as a representative; or”.

### **Amendment of regulation 9**

5. Regulation 9(3) of the principal Regulations is amended by deleting sub-paragraphs (i) to (iv) of sub-paragraph (b) and substituting the following sub-paragraphs:

- “(i) securities;
- (ii) units in a collective investment scheme;
- (iii) exchange-traded derivatives contracts;
- (iv) OTC derivatives contracts;
- (iva) spot foreign exchange contracts;”.

### **Amendment of regulation 10**

6. Regulation 10 of the principal Regulations is amended —

- (a) by deleting paragraphs (3), (4) and (5); and
- (b) by deleting the words “paragraph (1), (2), (3), (4) or (5)” in paragraph (6) and substituting the words “paragraph (1) or (2)”.

### **Amendment of regulation 12**

7. Regulation 12 of the principal Regulations is amended by deleting paragraph (6) and substituting the following paragraph:

- “(6) Upon receipt of the notice and licence mentioned in paragraph (2), (3), (4) or (5) —
- (a) the Authority may cancel the licence; and

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- (b) except where the licence is returned under paragraph (4), the Authority may issue to the financial adviser a new licence in respect of the remaining type or types of financial advisory service or services and investment product or products authorised by its licence mentioned in paragraph (2), (3) or (5), as the case may be.”.

### **Amendment of regulation 15**

8. Regulation 15 of the principal Regulations is amended by deleting sub-paragraphs (i) and (ii) of paragraph (a) and substituting the following sub-paragraphs:

- “(i) advising others (other than in the manner specified in sub-paragraph (ii)), either directly or through publications or writings, and whether in electronic, print or other form, concerning —
- (A) futures contracts;
  - (B) spot foreign exchange contracts; or
  - (C) OTC derivatives contracts the value of which is determined by reference to, is derived from, or varies by reference to —
    - (CA) the value or amount of one or more currencies; or
    - (CB) fluctuations in the values or amounts of one or more currencies or currencies indices;
- (ii) advising others by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning —
- (A) futures contracts;
  - (B) spot foreign exchange contracts; or

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- (C) OTC derivatives contracts the value of which is determined by reference to, is derived from, or varies by reference to —
- (CA) the value or amount of one or more currencies; or
  - (CB) fluctuations in the values or amounts of one or more currencies or currencies indices.”.

### **Amendment of regulation 18**

9. Regulation 18(2) of the principal Regulations is amended by deleting the definition of “market value” and substituting the following definition:

““market value”, in relation to assets which are specified products listed for quotation, or quoted, on an approved exchange or an overseas exchange, means —

- (a) the last transacted price of the specified products traded on the approved exchange or overseas exchange on the immediately preceding business day;
- (b) if there was no trading in the specified products on the immediately preceding business day, then, subject to paragraph (c), the lower of the last transacted price and last bid price of the specified products in the immediately preceding 30 days; or
- (c) if there was no trading in the specified products in the immediately preceding 30 days —
  - (i) the value of the specified products as estimated by the exchange; or
  - (ii) in the absence of such a value, zero value or any other value as approved by the Authority before the grant of the advance, loan or credit facility as mentioned in

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paragraph (1), or provision of those assets as fresh security, as the case may be;”.

### **Amendment of regulation 18B**

**10.** Regulation 18B(9) of the principal Regulations is amended by deleting paragraph (a) of the definition of “new product” and substituting the following paragraph:

- “(a) means any investment product that has not been previously sold or marketed by the financial adviser, or any representative of the financial adviser, other than —
- (i) any spot foreign exchange contract other than for the purposes of leveraged foreign exchange trading;
  - (ii) any futures contract traded on an approved exchange, an overseas exchange or a recognised market operator; or
  - (iii) any specified product quoted on an approved exchange, an overseas exchange or a recognised market operator; and”.

### **Deletion of regulation 19**

**11.** Regulation 19 of the principal Regulations is deleted.

### **Amendment of regulation 20A**

**12.** Regulation 20A of the principal Regulations is amended —

- (a) by deleting the word “securities” wherever it appears in paragraphs (1)(a), (i) and (ii), (2), (3)(a) and (4) and in the regulation heading and substituting in each case the words “listed specified products”;
- (b) by deleting the words “in Form 12” in paragraph (1)(i); and



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- (c) by deleting paragraph (5) and substituting the following paragraph:

“(5) In this regulation and regulation 20B, “listed specified products” means specified products which are listed for quotation, or quoted, on an organised market that is operated by an approved exchange or a recognised market operator.”.

### **Amendment of regulation 20B**

**13.** Regulation 20B of the principal Regulations is amended —

- (a) by deleting the word “securities” in paragraphs (1), (2) and (6) and substituting in each case the words “listed specified products”;
- (b) by deleting paragraphs (3), (4) and (5);
- (c) by deleting “(3), (4),” in paragraph (8); and
- (d) by deleting paragraph (9).

### **Amendment of regulation 20C**

**14.** Regulation 20C(1) of the principal Regulations is amended by deleting the word “securities” and substituting the words “specified products”.

### **Amendment of regulation 22**

**15.** Regulation 22(7) of the principal Regulations is amended by deleting sub-paragraph (iii) of sub-paragraph (b) and substituting the following sub-paragraph:

“(iii) under any listing rule or other requirement of an approved exchange or overseas exchange; and”.

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**New Division heading of Part VI**

16. Part VI of the principal Regulations is amended by inserting, immediately above regulation 27, the following Division heading:

*“Division 1 — General exemptions”.*

**Amendment of regulation 27**

17. Regulation 27(1) of the principal Regulations is amended —

- (a) by deleting the word “or” at the end of sub-paragraph (d);
- (b) by deleting the full-stop at the end of sub-paragraph (e) and substituting a semi-colon, and by inserting immediately thereafter the following sub-paragraphs:

“(f) a person who acts, whether directly or indirectly, as a financial adviser in —

- (i) giving advice in Singapore, either directly or through publications or writings, and whether in electronic, print or other form; or
- (ii) issuing or promulgating research analyses or research reports, whether in electronic, print or other form,

in respect of the person’s business of fund management that is carried out in accordance with paragraph 5(1)(j) or (k) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations;

- (g) a person who carries on business of advising accredited investors or expert investors, either directly or through publications or writings or by issuing or promulgating research analyses or research reports, concerning OTC derivatives

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contracts the value of which is determined by reference to —

- (i) the value or amount of one or more commodities; or
  - (ii) fluctuations in the values or amounts of one or more commodities;
- (h) an approved global trading company which carries on business of advising others, either directly or through publications or writings or by issuing or promulgating research analyses or research reports, concerning OTC derivatives contracts the value of which is determined by reference to —
- (i) the value or amount of one or more commodities; or
  - (ii) fluctuations in the values or amounts of one or more commodities.”;
- (c) by deleting the words “or (e)” in paragraphs (5) and (7) and substituting in each case the words “, (e), (f), (g) or (h)”;
- (d) by deleting the words “or (e)” in paragraph (6) and substituting the words “, (e), (f) or (g)”;
- (e) by inserting, immediately after the definition of “approved Finance and Treasury Centre” in paragraph (8), the following definition:
- ““approved global trading company” means an approved global trading company under section 43P of the Income Tax Act;” and
- (f) by deleting the words “advising certain persons” in the regulation heading and substituting the words “certain persons in respect of certain activities”.

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**Amendment of regulation 27A**

18. Regulation 27A(1) of the principal Regulations is amended by deleting the words “contracts or arrangements for the purposes of foreign exchange trading” and substituting the words “spot foreign exchange contracts other than for the purposes of leveraged foreign exchange trading”.

**Amendment of regulation 31**

19. Regulation 31 of the principal Regulations is amended —

- (a) by inserting the word “or” at the end of paragraph (1)(a)(ii)(A);
- (b) by deleting sub-paragraph (B) of paragraph (1)(a)(ii);
- (c) by inserting the word “or” at the end of paragraph (2)(a)(iii)(A);
- (d) by deleting sub-paragraph (B) of paragraph (2)(a)(iii); and
- (e) by deleting the words “, market any collective investment scheme” in paragraph (3)(i)(B).

**Deletion and substitution of regulation 32A**

20. Regulation 32A of the principal Regulations is deleted and the following regulation substituted therefor:

**“Exemption for persons exempt under Second Schedule to Securities and Futures (Licensing and Conduct of Business) Regulations**

**32A.—**(1) A corporation which is exempt from holding a capital markets services licence under paragraph 3(1)(d) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations is exempt under section 23(1)(f) of the Act from holding a financial adviser’s licence in respect of the following:

- (a) advising others, either directly or through publications or writings, and whether in electronic, print or other form, concerning futures contracts;

- (b) issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning futures contracts.

(2) A corporation which is exempt from holding a capital markets services licence under paragraph 3A(1)(d) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations is exempt under section 23(1)(f) of the Act from holding a financial adviser's licence in respect of the following:

- (a) advising others, either directly or through publications or writings, and whether in electronic, print or other form, concerning OTC derivatives contracts;
- (b) issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning OTC derivatives contracts.”.

### **New regulation 32CA**

21. The principal Regulations are amended by inserting, immediately after regulation 32C, the following regulation:

**“Exemption for foreign companies providing financial advisory service in respect of specified investment products**

**32CA.**—(1) Subject to the conditions in paragraph (2), a foreign company is exempt under section 23(1)(f) of the Act from holding a financial adviser's licence for providing a financial advisory service specified in paragraph 1 or 2 of the Second Schedule to the Act in respect of any specified investment product if the conditions in paragraph (2) are satisfied.

(2) The conditions mentioned in paragraph (1) are —

- (a) the financial advisory service is provided to an accredited investor, expert investor or institutional investor;

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- (b) the financial advisory service is provided under an arrangement that is entered into before 8 October 2018 by the foreign company with a related corporation which is a licensed financial adviser or an exempt financial adviser under section 23(1)(a), (b), (c), (d) or (e) of the Act; and
  - (c) the foreign company is subject to regulatory oversight by a foreign regulatory authority in the place where the foreign company is established to carry on the business of providing the financial advisory service.

(3) A foreign company that is exempt under paragraph (1) ceases to be exempt in relation to a type of financial advisory service mentioned in that paragraph if the foreign company ceases to be subject to regulatory oversight by the foreign regulatory authority mentioned in paragraph (2)(c) in relation to the provision of that type of financial advisory service.

(4) In this regulation, “foreign regulatory authority” means an authority of a foreign country exercising any function that corresponds to a regulatory function of the Authority under the Act.”.

### **Amendment of regulation 32D**

**22.** Regulation 32D of the principal Regulations is amended —

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

“(1) A venture capital fund manager is exempt from sections 25 to 29, 32, 33, 34 and 36 of the Act, as applied by section 23(4) of the Act, in respect of its business of advising one or more venture capital funds concerning any investment product, other than —

- (a) advising by issuing or promulgating research analyses or research reports concerning any investment product; or

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(b) advising on corporate finance within the meaning of the Securities and Futures Act.”; and

(b) by deleting the words “any financial advisory service mentioned in paragraph (1)(a) and (b)” in paragraphs (2) and (3) and substituting in each case the words “the financial advisory service mentioned in paragraph (1)”.

### **Amendment of regulation 33A**

**23.** Regulation 33A(8) of the principal Regulations is amended —

(a) by deleting the definition of “execution activities” and substituting the following definition:

““execution activities” means dealing in capital markets products that are specified products that —

(a) have received approval in-principle for listing and quotation on any approved exchange or overseas exchange; or

(b) are listed for quotation or quoted on any approved exchange or overseas exchange;”; and

(b) by deleting the definition of “overseas securities exchange”.

### **Amendment of section 34A**

**24.** Regulation 34A(2) of the principal Regulations is amended —

(a) by deleting the definition of “execution activities” and substituting the following definition:

““execution activities” means either or both of the following activities:

(a) dealing in capital markets products that are specified products which have received approval in-principle

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for listing and quotation on, or are listed for quotation or quoted on, any approved exchange or overseas exchange;

(b) dealing in capital markets products that are futures contracts;” and

(b) by deleting the definition of “overseas securities exchange”.

### **Amendment of regulation 35**

25. Regulation 35(1) of the principal Regulations is amended by deleting the word “securities” in sub-paragraph (a) and substituting the words “specified product”.

### **Amendment of regulation 37**

26. Regulation 37 of the principal Regulations is amended —

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

“(b) unless sub-paragraph (ba) applies, where the person commences business in —

(i) any financial advisory service or any additional financial advisory service;  
or

(ii) any financial advisory service in respect of any additional type of investment product,

a notice of such commencement in Form 26 not later than 14 days prior to the commencement or such later date as the Authority may allow in any particular case;

(ba) where immediately before 8 October 2018, the person carried on a business of providing any financial advisory service specified in paragraph 1 or 2 of the Second



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Schedule to the Act in respect of any specified investment product, a notice of this fact in Form 26 not later than 24 months after 8 October 2018 or such later date as the Authority may allow in any particular case;”;

- (b) by inserting, immediately after the words “sub-paragraph (b)” in paragraph (1)(c)(i), the words “or (ba)”;
- (c) by inserting, immediately after the words “financial advisory service” in paragraph (1)(d), the words “, or any financial advisory service in respect of any investment product,”;
- (d) by deleting sub-paragraph (i) of paragraph (1)(d) and substituting the following sub-paragraph:
- “(i) Form 26 under sub-paragraph (b) or (ba);”;
- and
- (e) by deleting the word “and” at the end of sub-paragraph (d) of paragraph (1), and by inserting immediately thereafter the following sub-paragraph:
- “(da) where an appointed representative or a provisional representative of the person ceases to act as a representative in relation to any financial advisory service in respect of any investment product that is indicated against the name of the representative in the public register of representatives, a notice of such cessation in Form 10 not later than the next business day after the date of such cessation; and”.

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**New Division 2 of Part VI**

27. The principal Regulations are amended by inserting, immediately after regulation 40B in Part VI, the following Division:

*“Division 2 — Temporary exemptions relating to provision of financial advisory services in respect of specified investment products*

**Definitions of this Division**

**40BA.** In this Division —

“exempt financial adviser” means an exempt financial adviser under section 23(1)(a), (b), (c), (d) or (e) of the Act;

“financial advisory service” means a type of financial advisory service specified in paragraph 1 or 2 of the Second Schedule to the Act;

“grace period” means a period ending 24 months after 8 October 2018.

*Subdivision (1) — Exemption of financial advisers*

**Exemption of licensed financial adviser in relation to providing financial advisory service in respect of specified OTC derivatives contracts**

**40BB.**—(1) Subject to paragraph (2), a holder of a financial adviser’s licence who, immediately before 8 October 2018, carried on a business of providing any financial advisory service in respect of any specified OTC derivatives contract is exempt from sections 6(1), 22(1) and 25 to 29 of the Act and regulations 18B and 21(1) and (2) in relation to the provision of the financial advisory service until the expiry of the grace period.

(2) If the holder of the financial adviser’s licence mentioned in paragraph (1) applies during the grace period to the Authority under section 16(1) of the Act to vary its licence by adding —

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- (a) a financial advisory service in respect of OTC derivatives contracts as being authorised to be provided by the licence; or
  - (b) OTC derivatives contracts as a type of investment product in respect of which the holder may provide a financial advisory service,

the exemption under paragraph (1) ceases at the end of the date specified in paragraph (3).

(3) For the purposes of paragraph (2), the date is —

- (a) where the application is approved or withdrawn, the later of the following dates:
  - (i) the date on which the grace period expires;
  - (ii) the date on which the application is approved or withdrawn, as the case may be; or
- (b) where the application is refused —
  - (i) if no appeal is made under section 20 of the Act against the refusal of the application, the last date on which an appeal could have been made; or
  - (ii) if an appeal is made under section 20 of the Act against the refusal of the application —
    - (A) if the appeal is allowed, the date on which the appeal is allowed; or
    - (B) if the appeal is rejected, the date on which the holder of the financial adviser's licence is notified of the rejection of the appeal.

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**Exemption of exempt financial adviser in relation to providing financial advisory service in respect of specified investment products**

**40BC.** An exempt financial adviser who, immediately before 8 October 2018, carried on a business of providing any financial advisory service in respect of a specified investment product is exempt from sections 25 to 29 of the Act, read with section 23(4) of the Act, in relation to the provision of the financial advisory service until the expiry of the grace period.

**Exemption of person other than licensed or exempt financial advisers in relation to providing financial advisory service in respect of specified OTC derivatives contracts**

**40BD.**—(1) Subject to paragraph (2), a person (other than a licensed financial adviser or an exempt financial adviser) who, immediately before 8 October 2018, carried on a business of providing a financial advisory service in respect of any specified OTC derivatives contract is exempt from sections 6(1) and 22(1) of the Act until the expiry of the grace period.

(2) If a person mentioned in paragraph (1) applies during the grace period to the Authority under section 8(1) of the Act for the grant of a financial adviser's licence in relation to the financial advisory service in respect of OTC derivatives contracts, the period of exemption under paragraph (1) ceases at the end of —

- (a) where the application is approved or withdrawn, the later of the following dates:
  - (i) the date on which the grace period expires;
  - (ii) the date on which the application is approved or withdrawn, as the case may be; or
- (b) where the application is refused —
  - (i) if no appeal is made under section 20 of the Act against the refusal of the application, the last

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date on which an appeal could have been made;  
or

- (ii) if an appeal is made under section 20 of the Act against the refusal of the application —
  - (A) if the appeal is allowed, the date on which the appeal is allowed; or
  - (B) if the appeal is rejected, the date on which the person is notified of the rejection of the appeal.

(3) If a person is granted a financial adviser's licence pursuant to an application under paragraph (2), the person is also exempt from sections 25 to 29 of the Act and regulations 18B and 21(1) and (2) in relation to the financial advisory service starting on the date of the grant of the financial adviser's licence until the expiry of the grace period.

*Subdivision (2) — Exemption of representatives, etc.*

**Exemption of appointed representative in relation to providing financial advisory service in respect of specified investment products**

**40BE.**—(1) Subject to paragraph (3), an appointed representative (A) of a licensed financial adviser who, immediately before 8 October 2018, had been providing a financial advisory service in respect of any specified OTC derivatives contract is exempt from section 23B(1) and sections 25, 26, 27 and 29, read with section 37, of the Act and regulation 21(3) in relation to the provision of the financial advisory service on behalf of the licensed financial adviser until the expiry of the grace period.

(2) Subject to paragraph (3), an appointed representative (B) of an exempt financial adviser who, immediately before 8 October 2018, had been providing a financial advisory service in respect of any specified investment product is exempt from section 23B(1) and sections 25, 26, 27 and 29, read with section 37, of the Act and regulation 21(3) in relation

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to the provision of the financial advisory service on behalf of the exempt financial adviser until the expiry of the grace period.

(3) If the principal of *A* or *B* lodges with the Authority during the grace period a notice mentioned in section 23I of the Act to appoint *A* or *B* (as the case may be) as an appointed representative in relation to the provision of the financial advisory service mentioned in paragraph (1) or (2) (as the case may be), the exemption under paragraph (1) or (2) (as the case may be) ceases at the end of —

- (a) where the Authority registers the provision of such financial advisory service under section 23I(3) of the Act by *A* or *B* (as the case may be), the later of the following dates:
  - (i) the date on which the grace period expires;
  - (ii) the date of the registration by the Authority; or
- (b) where the Authority refuses under section 23J(1) of the Act to register the provision of such financial advisory service by *A* or *B*, as the case may be —
  - (i) if no appeal is made under section 23M of the Act against the refusal, the last date on which an appeal could have been made; or
  - (ii) if an appeal is made under section 23M of the Act against the refusal —
    - (A) if the appeal is allowed, the date on which the appeal is allowed; or
    - (B) if the appeal is rejected, the date on which *A* or *B* (as the case may be) is notified of the rejection of the appeal.

(4) In paragraph (3), “register”, in relation to the provision of a type of financial advisory service by an appointed representative, means to enter in the public register of representatives the type of financial advisory service as one which the appointed representative may provide as a representative.

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**Exemption of person (other than appointed representative) acting as representative in relation to any financial advisory service in respect of specified investment products**

**40BF.**—(1) A person (other than an appointed representative) (*A*) who, immediately before 8 October 2018, acted as, or held himself out as, a representative for a licensed financial adviser in relation to a financial advisory service in respect of specified OTC derivatives contracts is exempt from section 23B(1) of the Act and regulation 21(3) for continuing to so act, or hold himself out, as a representative for the licensed financial adviser in relation to the same matters until the expiry of the grace period.

(2) A person (other than an appointed representative) (*B*) who, immediately before 8 October 2018, acted as, or held himself out as, a representative for an exempt financial adviser in relation to a financial advisory service in respect of any specified investment product is exempt from section 23B(1) of the Act and regulation 21(3) for continuing to so act, or hold himself out, as a representative for the exempt financial adviser in relation to the same matters until the expiry of the grace period.

(3) If the principal of *A* or *B* (as the case may be) lodges during the grace period the documents under section 23F(1) of the Act to appoint *A* or *B* (as the case may be) as an appointed representative in relation to the financial advisory service mentioned in paragraph (1) or (2) (as the case may be), the exemption under paragraph (1) or (2) (as the case may be) ceases at the end of —

(a) where the Authority registers the person under section 23F(2) of the Act as an appointed representative in relation to such financial advisory service, the later of the following dates:

- (i) the date on which the grace period expires;
- (ii) the date of the registration by the Authority; or

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- (b) where the Authority refuses under section 23J(1) of the Act to register the person as an appointed representative in relation to such financial advisory service —
- (i) if no appeal is made under section 23M of the Act against the refusal, the last date on which an appeal could have been made; or
  - (ii) where an appeal is made under section 23M of the Act against the refusal —
    - (A) if the appeal is allowed, the date on which the appeal is allowed; or
    - (B) if the appeal is rejected, the date on which the person is notified of the rejection of the appeal.

(4) If a person is registered as an appointed representative pursuant to a lodgment under paragraph (3), the person is also exempt from sections 25, 26, 27 and 29, read with section 37, of the Act and regulation 21(3) in relation to the financial advisory service mentioned in paragraph (1) or (2) (as the case may be) starting on the date on which the person is registered until the expiry of the grace period.

(5) In paragraph (3), “register”, in relation to a person, means to enter into the public register of representatives the name of the person as an appointed representative, the type of financial advisory service which he may provide, and such other particulars as the Authority considers appropriate.

**Exemption of person performing any financial advisory service in respect of specified OTC derivatives contracts for person other than licensed or exempt financial adviser**

**40BG.**—(1) A person who, immediately before 8 October 2018, was in the direct employment of, or acting for, or by arrangement with, a person other than a licensed financial adviser or an exempt financial adviser, and performed on behalf of such person a financial advisory service in respect of



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specified OTC derivatives contracts is exempt from section 23B(1) of the Act and regulation 21(3) for continuing to perform the financial advisory service on behalf of the second-mentioned person until the expiry of the grace period.

(2) If a licensed financial adviser lodges during the grace period the documents under section 23F(1) of the Act to appoint the person as an appointed representative in relation to the financial advisory service in respect of specified OTC derivatives contracts (called in this regulation the advisory service), the exemption under paragraph (1) ceases at the end of —

- (a) where the Authority registers the person as an appointed representative in relation to the advisory service, the later of the following dates:
  - (i) the date on which the grace period expires;
  - (ii) the date of the registration by the Authority; or
- (b) where the Authority refuses under section 23J(1) of the Act to register the person as an appointed representative in relation to the advisory service —
  - (i) if no appeal is made under section 23M of the Act against the refusal, the last date on which an appeal could have been made; or
  - (ii) if an appeal is made under section 23M of the Act against the refusal —
    - (A) if the appeal is allowed, the date on which the appeal is allowed; or
    - (B) if the appeal is rejected, the date on which the person is notified of the rejection of the appeal.

(3) If a person is registered as an appointed representative pursuant to a lodgment under paragraph (2), the person is also exempt from sections 25, 26, 27 and 29, read with section 37, of the Act and regulation 21(3) in relation to the advisory service starting on the date on which the person is registered until the expiry of the grace period.

(4) In paragraph (2), “register”, in relation to a person, means to enter into the public register of representatives the name of the person as an appointed representative, the type of financial advisory service which he may provide, and such other particulars as the Authority considers appropriate.

*Subdivision (3) — Exemption from section 23B(3) of Act*

**Exemption from section 23B(3) of Act**

**40BH.** The principal of the person mentioned in regulation 40BE(1) or (2), 40BF(1) or (2) or 40BG(1) is exempt from section 23B(3) of the Act in relation to the provision of any type of financial advisory service by the person on behalf of the principal for which the person is exempt under that provision.”.

**Deletion of regulations 44 and 45**

**28.** Regulations 44 and 45 of the principal Regulations are deleted.

**Amendment of Second Schedule**

**29.** The Second Schedule to the principal Regulations is amended —

- (a) by deleting “\$2,000” in the third column of item 2 and substituting the words “Amount derived from the formula:  $\$2,000 + (5 \times A)$ , where A is the total number of appointed and provisional representatives of the financial adviser as at 1 January of the calendar year concerned that is in excess of 100”;

(b) by inserting, immediately after item 3, the following item:

<p>“3A. Section 23A(1)</p>	<p>Annual fee for exempt financial adviser</p>	<p>Amount derived from the formula: <math>5 \times A</math>, where A is the total number of appointed and provisional representatives of the exempt financial adviser as at 1 January of the calendar year concerned that is in excess of 100</p>	<p>(a) Where exempt financial adviser has no GIRO arrangement with the Authority, in the manner specified by the Authority by the date specified in the fee advice</p> <p>(b) Where exempt financial adviser has GIRO arrangement with the Authority, by GIRO by the date specified by the Authority in the fee advice”;</p>
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(c) by deleting “\$100” in the third column of items 4 and 7 and substituting in each case “\$200”; and

(d) by deleting the word “principal” in paragraph (b) in the fourth column of item 8 and substituting the word “person”.

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**Amendment of Fifth Schedule**

**30.** The Fifth Schedule to the principal Regulations is amended —

(a) by deleting the words “securities approved in-principle for listing and quotation on, or listed for quotation or quoted on, any securities exchange or overseas securities exchange” in paragraph 1 and substituting the words “investment products approved in-principle for listing and quotation on, or listed for quotation or quoted on, any approved exchange or overseas exchange”;

(b) by deleting sub-paragraph (c) of paragraph 1 and substituting the following sub-paragraphs:

“(c) any exchange-traded derivatives contract issued or proposed to be issued by a corporation or unincorporated body, the value of which is determined by reference to, is derived from, or varies by reference to —

(i) the value or amount of the shares of the corporation or unincorporated body, as the case may be; or

(ii) fluctuations in the values or amounts of the shares of the corporation or unincorporated body, as the case may be;

(ca) any exchange-traded derivatives contract the value of which is determined by reference to, is derived from, or varies by reference to —

(i) the value or amount of units in a business trust; or

(ii) fluctuations in the values or amounts of units in a business trust;”;

(c) by deleting sub-paragraphs (e) and (f) of paragraph 1 and substituting the following sub-paragraph:

“(e) any unit in a real estate investment trust;”;

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

“(i) any 2 or more of the investment products mentioned in sub-paragraphs (a) to (h) that are linked together in a stapled manner such that any such investment product is not transferable and cannot be otherwise dealt with independent of the remaining investment products.”;

(e) by deleting the word “securities” in paragraph 2(b)(i)(C) and substituting the words “investment product”;

(f) by deleting the word “securities” in paragraph 2(b)(i)(E) and substituting the words “investment products”; and

(g) by deleting the definition of “overseas securities exchange” in paragraph 4.

### **Saving and transitional provisions**

**31.—**(1) Despite regulation 29(a), the annual licence fee specified in item 2 of the Second Schedule to the principal Regulations as in force immediately before 8 October 2018 continues to apply to a financial adviser who is granted a financial adviser’s licence before that date and continues to hold the financial adviser’s licence on 8 October 2018, in respect of the calendar year 2018.

(2) A financial adviser who is an exempt financial adviser under section 23(1)(a), (b), (c), (d) or (e) of the Act immediately before 8 October 2018 is exempt from having to pay the annual fee specified in item 3A of the Second Schedule to the principal Regulations as in force on or after 8 October 2018, in respect of the calendar year 2018.

*[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]*

Made on 4 October 2018.

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[CMI FA 01/2016; AG/LEGIS/SL/110/2015/2 Vol. 3]