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FINANCIAL ADVISERS ACT
(CHAPTER 110)

FINANCIAL ADVISERS (AMENDMENT NO. 3)
REGULATIONS 2015

In exercise of the powers conferred by section 104 of the Financial Advisers Act, the Monetary Authority of Singapore makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Financial Advisers (Amendment No. 3) Regulations 2015 and come into operation on 1 January 2016.

New regulation 34A

2. The Financial Advisers Regulations (Rg 2) are amended by inserting, immediately after regulation 34, the following regulation:

“Non-application of sections 38 and 39 of Act for certain persons

34A.—(1) Sections 38 and 39 of the Act do not apply to the following:

- (a) any bank in Singapore or any merchant bank which is exempt under the Financial Advisers (Exemption from Sections 25 to 29 and 36) Regulations (Rg 6) in respect of the provision of any financial advisory service relating to an existing product or a new product within the meaning of those Regulations, in relation to its business of providing such service;
- (b) a bank or merchant bank which is exempt from holding a financial adviser’s licence under section 23(1)(a) or (b) of the Act in relation to its business involving an activity for which it is exempt under regulation 27A from complying with section 23(4) of the Act;

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- (c) a licensed financial adviser or an exempt financial adviser who solely advises others by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning any investment product;
 - (d) a licensed financial adviser or an exempt financial adviser, in relation to —
 - (i) its business of providing any financial advisory service to a client who is an accredited investor, an expert investor or an institutional investor or which is not a natural person;
 - (ii) its business of providing any financial advisory service through a department, division, section or unit within the financial adviser, for which the department, division, section or unit within the financial adviser has been exempted under section 100(2) of the Act from having to comply with —
 - (A) sections 25, 27, 28 and 36 of the Act; and
 - (B) the relevant written directions;
 - (iii) its business of making recommendations with respect to life policies which are sold as an ancillary product to loans with a simple payment basis for the insurance cover (including policies that cover outstanding loans such as personal loans, car loans and credit card balances, but excluding mortgage reducing term assurance plans);
 - (iv) its business of making recommendations with respect to selling or purchasing group life policies;
 - (v) its business of providing execution-related advice as a dealer;
 - (vi) its business of providing any financial advisory service where —
 - (A) only factual information is provided to a client with respect to any investment product (including the marketing of any designated investment product through the use of direct response, advertising, or communications through any medium); and

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- (B) no advice or recommendation is provided by the licensed financial adviser, exempt financial adviser or their representatives, to such client with respect to such investment product;
- (vii) its business involving an activity for which the licensed financial adviser or exempt financial adviser is exempt under regulation 31, 32B, 34 or 36 from complying with section 27 of the Act; or
- (viii) its business involving an activity to which section 27 of the Act does not apply to a licensed financial adviser or an exempt financial adviser by virtue of regulation 18A.
- (2) In this regulation —
- “collective investment scheme” has the same meaning as in section 2(1) of the Securities and Futures Act (Cap. 289);
- “dealer” means a person exempt from holding a financial adviser’s licence under section 23(1)(a), (b) or (d) of the Act and who carries on a business of providing execution-related advice;
- “designated investment product” has the same meaning as in section 25(6) of the Act;
- “execution activities” means either or both of the following activities as defined in Part II of the Second Schedule to the Securities and Futures Act:
- (a) dealing in securities (other than units in collective investment schemes) that are listed for quotation or quoted on a securities exchange, overseas securities exchange or recognised market operator;
- (b) trading in futures contracts;
- “execution-related advice” means advice provided which is solely incidental to the execution activities of a dealer with no discrete fee charged by the dealer for the advice rendered;
- “group life policy” means a life policy in respect of which —
- (a) the policy owner is not an individual; and
- (b) there are 2 or more insured persons;

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- “overseas securities exchange” has the same meaning as in section 2(1) of the Securities and Futures Act;
- “policy owner” has the same meaning as in the First Schedule to the Insurance Act (Cap. 142);
- “relevant written directions” means the following written directions issued by the Authority under section 58 of the Act:
- (a) Notice on Recommendations on Investment Products (Notice No. FAA-N16);
 - (b) Notice on Appointment and Use of Introducers by Financial Advisers (Notice No. FAA-N02);
 - (c) Notice on Information to Clients and Product Information Disclosure (Notice No. FAA-N03);
 - (d) Notice on Minimum Entry and Examination Requirements for Representatives of Licensed Financial Advisers and Exempt Financial Advisers (Notice No. FAA-N13).”.

New Part VIA

3. The Financial Advisers Regulations are amended by inserting, immediately after regulation 40B, the following Part:

“PART VIA

PRESCRIBED NON-FINANCIAL ADVISORY SERVICES

Definitions of this Part

40C. In this Part —

- “associate”, in relation to a licensed international market agent or an applicant for an international market agent licence, has the same meaning as in regulation 2(2) of the Casino Control (Casino Marketing Arrangements) Regulations 2013 (G.N. No. S 65/2013);
- “client” includes prospective client;
- “estate agent” has the same meaning as in section 3(1) of the Estate Agents Act (Cap. 95A);
- “exempt financial adviser” means a person who is exempted from holding a financial adviser’s licence under section 23(1)(a), (b), (c), (d) or (e) of the Act;

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- “international market agent” and “international market agent licence” have the same meanings as in section 2(1) of the Casino Control Act (Cap. 33A);
- “investment” means any tangible or intangible asset that is acquired or held by a person with the expectation of financial return or benefit in future;
- “licensed estate agent” has the same meaning as in section 3(1) of the Estate Agents Act;
- “non-financial advisory service” means a service other than a financial advisory service;
- “referral activity” means —
- (a) referring a client to a relevant person (referred to in regulation 40D(2)) for the provision of any non-financial advisory service or any product in relation to such service; or
 - (b) the activity referred to in paragraph (a) and either or both of the following:
 - (i) recording the particulars of a client and forwarding such particulars to a relevant person with the client’s consent;
 - (ii) providing factual information to a client on any product or service in relation to any non-financial advisory service provided by the relevant person, including (where applicable) information on —
 - (A) the name of the product or service;
 - (B) the product or service provider; or
 - (C) any fee or charge which may be imposed,
- and “refer” and “referrals” are to be construed accordingly;
- “revenue” means fees, brokerage, commissions and income earned in the ordinary course of business of the licensed financial adviser;
- “salesperson” has the same meaning as in section 3(1) of the Estate Agents Act.

Permitted businesses under section 55A(1)(iii) of Act

40D.—(1) The businesses that are prescribed for the purposes of section 55A(1)(iii) of the Act which a licensed financial adviser may carry on, or may enter into any partnership, joint venture or any other arrangement with any person to carry on, are set out in paragraphs (2), (4) and (5).

(2) A licensed financial adviser may carry on, or may enter into any partnership, joint venture or any other arrangement with any person to carry on, the business of carrying out referral activities (whether through any of the licensed financial adviser's representatives or otherwise) in respect of any non-financial advisory service for one or more of the following persons (called in this regulation the relevant person) where the conditions set out in paragraph (3) are complied with:

- (a) any bank licensed under the Banking Act (Cap. 19);
- (b) any merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186);
- (c) any finance company licensed under the Finance Companies Act (Cap. 108);
- (d) any money-changer licensed to conduct money-changing business, or any remitter licensed to conduct remittance business, under the Money-changing and Remittance Businesses Act (Cap. 187);
- (e) any insurer licensed or regulated under the Insurance Act (Cap. 142);
- (f) any insurance intermediary registered or regulated under the Insurance Act;
- (g) any holder of a capital markets services licence under the Securities and Futures Act (Cap. 289);
- (h) any licensed trust company under the Trust Companies Act (Cap. 336);
- (i) any person who carries on a business of providing will writing services, estate or tax planning services, or any combination of those services.

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- (3) The conditions referred to in paragraph (2) are —
- (a) the licensed financial adviser must, when carrying out referral activities (whether through any of its representatives or otherwise), disclose in writing to every client —
 - (i) that the licensed financial adviser is carrying out referral activities for one or more relevant persons;
 - (ii) that, when carrying out referral activities, the licensed financial adviser and its representatives must not give advice or provide any recommendation on any product or service in relation to any non-financial advisory service to the client;
 - (iii) whether the licensed financial adviser or any of its directors or shareholders, is a substantial shareholder of the relevant person, and whether the licensed financial adviser has any other relationship with the relevant person or any person acting for or on behalf of the relevant person (as the case may be);
 - (iv) whether the licensed financial adviser has any other actual or potential conflict of interest that may arise from carrying out referral activities for the client;
 - (v) whether or not the licensed financial adviser or any of its representatives is or will be remunerated by one or more relevant persons for carrying out referral activities;
 - (vi) where the licensed financial adviser or any of its representatives is or will be remunerated by one or more relevant persons, the amount of remuneration and the basis of remuneration received; and
 - (vii) such other information as the Authority may specify;

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- (b) the licensed financial adviser must not, when making any referrals (whether through its representatives or otherwise), give advice or provide any recommendation on any product or service in relation to any non-financial advisory service to the client;
 - (c) the licensed financial adviser must ensure effective controls and segregation of duties to mitigate actual or potential conflicts of interest that may arise from the licensed financial adviser carrying out referral activities;
 - (d) the licensed financial adviser must ensure that its carrying out of referral activities does not cause any reputational damage to itself or the financial advisory industry, or both;
 - (e) where —
 - (i) a client in relation to whom the licensed financial adviser carries out referral activities enquires about any non-financial advisory service; and
 - (ii) the licensed financial adviser carries out referral activities for more than one relevant person, the licensed financial adviser (whether through any of its representatives or otherwise) must, with the consent of the client, refer that client to every relevant person for which it carries out the referral activities;
 - (f) the licensed financial adviser must not receive or deal with client's money or property in relation to referral activities;
 - (g) the referral activities which the licensed financial adviser may carry out for a relevant person referred to in paragraph (2)(i) may only be those relating to that relevant person's business of providing will writing services, estate or tax planning services, or any combination of those services; and
 - (h) the licensed financial adviser must do all of the following before the licensed financial adviser refers the client to a relevant person referred to in paragraph (2)(i):
 - (i) the licensed financial adviser must conduct due diligence to ensure that the relevant person providing the will writing services, estate or tax planning services, or any combination of those services, is competent and suitably qualified to do so;

- (ii) the licensed financial adviser must provide a written document to the client which clearly sets out —
 - (A) which of the services that the licensed financial adviser provides are financial advisory services and which of the activities carried out by the licensed financial adviser are referral activities; and
 - (B) the role and responsibilities of the relevant person when providing will writing services, estate or tax planning services, or any combination of those services; and
- (iii) the licensed financial adviser must obtain from the client a confirmation in writing that the client understands the written document referred to in sub-paragraph (ii).

(4) A licensed financial adviser may carry on, or may enter into any partnership, joint venture or any other arrangement with any person to carry on, the business of providing training and consultancy in respect of financial planning or financial literacy which are aimed at educating and empowering the public in Singapore (whether through any of its representatives or otherwise), subject to the following conditions:

- (a) where the training and consultancy relate to any investment, the product must be limited to investment products;
- (b) the licensed financial adviser must, when providing training or consultancy (whether through any of its representatives or otherwise), disclose in writing to every client whether any advice will be provided in the course of the training or consultancy.

(5) A licensed financial adviser may carry on, or may enter into any partnership, joint venture or any other arrangement with any person to carry on, the business of providing will writing services, estate or tax planning services, or any combination of those services (whether through any of its representatives or otherwise), subject to the condition that before the licensed financial adviser provides those services for a client —

- (a) the licensed financial adviser must conduct due diligence to ensure that every one of its representatives, officers or employees who provides those services, or any combination of those services, to the client, is competent and suitably qualified to do so;
- (b) the licensed financial adviser must provide a written document to the client which clearly sets out —
 - (i) which of the services that the licensed financial adviser provides are financial advisory services, and which of those services are will writing services, estate or tax planning services, or any combination of those services; and
 - (ii) the respective roles and responsibilities of the licensed financial adviser when providing financial advisory services, and will writing services, estate or tax planning services, or any combination of those services; and
- (c) obtain from the client a confirmation in writing that the client understands the written document referred to in sub-paragraph (b).

(6) A licensed financial adviser must establish and maintain a register of its representatives, officers and employees that carry on any business referred to in paragraphs (2), (4) and (5).

(7) The revenue generated by the licensed financial adviser from carrying on any business referred to in paragraphs (2), (4) and (5) in a financial year must not exceed 5% of the licensed financial adviser's annual revenue derived from its provision of financial advisory services in the financial year, based on the audited financial statements of the licensed financial adviser for that financial year.

(8) For the purposes of paragraphs (2), (4) and (5), the licensed financial adviser must notify the Authority of its intention to commence carrying on any business referred to in paragraphs (2), (4) and (5), at least 14 days prior to the date of commencement.

Prescribed criteria for consent under section 55C(2) of Act

40E. For the purposes of section 55C(2) of the Act, a financial adviser must not give its consent to an appointed representative or a provisional representative to engage in any of the acts referred to in section 55C(1) of the Act (called in this regulation the restricted act) unless the financial adviser is satisfied that —

- (a) the engagement in the restricted act will not give rise to a conflict of interest for the representative;
- (b) the engagement in the restricted act will not cause reputational damage to the financial adviser, or to the financial advisory industry, or to both;
- (c) the engagement in the restricted act is unlikely to result in the representative neglecting the representative's duties as the financial adviser's appointed representative or provisional representative, as the case may be;
- (d) the representative has, before engaging in the restricted act with or for a third party —
 - (i) informed the financial adviser that the representative intends to engage in the restricted acts with or for the third party; and
 - (ii) disclosed to the third party that the representative is an appointed representative or a provisional representative of the financial adviser;
- (e) the representative will not be engaging in any of the following acts:
 - (i) carrying on, or holding himself out in any way as carrying on, the business of moneylending or being concerned, engaged or employed in the business of moneylending;
 - (ii) organising, promoting or conducting a casino marketing arrangement in or with respect to any casino;

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- (iii) acting as an associate of an international market agent;
 - (iv) being concerned, engaged or employed in the business of an international market agent;
 - (v) being an applicant for an international market agent licence;
 - (vi) exercising or carrying on the business of an estate agent, or acting or holding himself out as an estate agent;
 - (vii) being concerned, engaged or employed in the business of an estate agent;
 - (viii) acting or holding himself out as a salesperson for any licensed estate agent;
 - (ix) marketing any investment that is not an investment product;
- (f) the representative will not invest in, or hold any interest in, any moneylending business or in any business of an international market agent or of an estate agent; and
- (g) it has in place, in a manner commensurate with the nature, scale and complexity of its business, the following:
- (i) systems and controls to evaluate the criteria set out in paragraphs (a) to (f);
 - (ii) processes in place to maintain records of every evaluation carried out by the financial adviser in relation to any restricted act which its appointed representative or provisional representative engages in.

Conditions for acting as representative despite other employment, business, etc.

40F. For the purposes of section 23B(1B) of the Act, a person (called in this regulation the specified person) may act as a representative or hold himself out as doing so despite being concurrently engaged in any of the activities set out in section 23B(1A)(a) or (b) of the Act (called in this regulation the specified activities) if the following conditions and requirements are complied with:

- (a) the specified person has informed the principal on whose behalf he intends to provide any financial advisory service (called in this regulation the proposed principal) of his engagement in the specified activities;

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- (b) the specified person has obtained, from every person for whom the specified person engages in any of the specified activities, prior approval to be an appointed representative or a provisional representative, as the case may be, of the proposed principal in respect of the financial advisory service provided by the proposed principal;
 - (c) the engagement by the specified person in the specified activities will not —
 - (i) give rise to a conflict of interest for the specified person;
 - (ii) cause reputational damage to the proposed principal, or to the financial advisory industry, or to both; and
 - (iii) result in the specified person neglecting his duties as the proposed principal's appointed representative or provisional representative, as the case may be;
 - (d) the specified person must not engage in any of the following acts:
 - (i) carrying on, or holding himself out in any way as carrying on, the business of moneylending or being concerned, engaged or employed in the business of moneylending;
 - (ii) organising, promoting or conducting any casino marketing arrangement in or with respect to any casino;
 - (iii) acting as an associate of an international market agent;
 - (iv) being concerned, engaged or employed in the business of an international market agent;
 - (v) being an applicant for an international market agent licence;
 - (vi) exercising or carrying on the business of an estate agent, or acting or holding himself out as an estate agent;
 - (vii) being concerned, engaged or employed in the business of an estate agent;

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- (viii) acting or holding himself out as a salesperson for any licensed estate agent;
 - (ix) marketing any investment that is not an investment product;
 - (e) the specified person will not invest in, or hold any interest in, any moneylending business or in any business of an international market agent or of an estate agent.

Conditions for appointment of appointed representative or provisional representative despite section 23B(3A) of Act

40G. For the purposes of section 23B(3B) of the Act, a licensed financial adviser in Singapore or an exempt financial adviser in Singapore may, despite section 23B(3A) of the Act, appoint as its appointed representative or provisional representative an individual whom the financial adviser knows or has reasonable grounds to believe, is concurrently engaged in the activities set out in section 23B(1A) of the Act (called in this regulation the specified activities) if the licensed financial adviser or exempt financial adviser, as the case may be, is satisfied that —

- (a) the individual has obtained from every person for whom the individual engages in any of the specified activities, prior approval to be an appointed representative or a provisional representative of the licensed financial adviser or exempt financial adviser, as the case may be, in respect of any type of financial advisory service provided by the licensed financial adviser or exempt financial adviser, as the case may be;
- (b) the engagement in the specified activities by the individual —
 - (i) will not give rise to a conflict of interest for the individual;
 - (ii) will not cause reputational damage to the licensed financial adviser or exempt financial adviser, or to the financial advisory industry, or to any combination of them; and
 - (iii) is unlikely to result in the individual neglecting his duties as the licensed financial adviser's or exempt financial adviser's appointed representative or provisional representative, as the case may be;

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- (c) the individual will not engage in any of the following:
- (i) carrying on, or holding himself out in any way as carrying on, the business of moneylending or being concerned, engaged or employed in the business of moneylending;
 - (ii) organising, promoting or conducting a casino marketing arrangement in or with respect to any casino;
 - (iii) acting as an associate of an international market agent;
 - (iv) being concerned, engaged or employed in the business of an international market agent;
 - (v) being an applicant for an international market agent licence;
 - (vi) exercising or carrying on the business of an estate agent, or acting or holding himself out as an estate agent;
 - (vii) being concerned, engaged or employed in the business of an estate agent;
 - (viii) acting or holding himself out as a salesperson for any licensed estate agent;
 - (ix) marketing any investment that is not an investment product; and
- (d) the individual will not invest in, or hold any interest in, any moneylending business or in any business of an international market agent or of an estate agent.”.

*[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]*

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