

FINANCIAL ADVISERS ACT
(CHAPTER 110, SECTIONS 6(3), 8, 9, 14, 16(2), 18, 19(1), 23, 24,
28, 32, 36(7), 39, 45, 48(1), 56, 57, 63, 94, 100 AND 104)

FINANCIAL ADVISERS REGULATIONS

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[1st October 2002]

PART I

PRELIMINARY

Citation

1. These Regulations may be cited as the Financial Advisers Regulations.

Definitions

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

“accredited investor” has the same meaning as in section 4A(1)(a) of the Securities and Futures Act (Cap. 289);

[S 362/2005 wef 01/07/2005]

[S 274/2008 wef 28/05/2008]

“advertisement” means the dissemination or conveyance of information, or an invitation or solicitation, by any means or in any form, including by means of —

- (a) publication in a newspaper, magazine, journal or other periodical;
- (b) display of posters or notices;
- (c) circulars, handbills, brochures, pamphlets, books or other documents;
- (d) letters addressed to individuals or bodies corporate or unincorporate;
- (e) photographs or cinematograph films; or
- (f) sound broadcasting, television, the Internet or other media;

“bonds” includes —

- (a) any note, bond or Treasury Bill;
- (b) an option in respect of any note, bond or Treasury Bill; and
- (c) such other securities or class of securities as the Authority may from time to time, by a guideline issued by the Authority, determine;

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

“client’s money or property” has the same meaning as in section 28(4) of the Act;

“entity” includes a corporation, an unincorporated association, a partnership and the government of any state, but does not include a trust;

[S 362/2005 wef 01/07/2005]

“expert investor” has the same meaning as in section 4A(1)(b) of the Securities and Futures Act;

[S 362/2005 wef 01/07/2005]

[S 274/2008 wef 28/05/2008]

“foreign company” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

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

“Government securities” means securities issued or proposed to be issued by the Government, and includes —

- (a) any debenture, stock or bond issued or proposed to be issued by the Government;
- (b) any right or option in respect of any debenture, stock or bond referred to in paragraph (a);
- (c) any book-entry Government securities as defined in section 2 of the Development Loan (1987) Act (Cap. 81A) or section 2 of the Government Securities Act (Cap. 121A); and
- (d) any book-entry Treasury Bill as defined in section 2 of the Local Treasury Bills Act (Cap. 167);

“guideline issued by the Authority” means a guideline or other document issued by the Authority under section 64 of the Act;

“institutional investor” has the same meaning as in section 4A(1)(c) of the Securities and Futures Act (Cap. 289);

[S 362/2005 wef 01/07/2005]

[S 274/2008 wef 28/05/2008]

“net asset value”, in relation to a corporation, means the excess of the value of the assets owned by the corporation over its liabilities;

“net head office funds”, in relation to a foreign company, means the net liability of the Singapore branch of that foreign company to its head office and any other branch outside of Singapore;

“paid-up capital” means ordinary shares and non-redeemable preference shares that have been fully paid for;

[S 383/2012 wef 07/08/2012]

“Registered Fund Management Company” means a corporation which is exempted from holding a capital markets services licence under paragraph 5(1)(i) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Cap. 289, Rg 10).

[S 383/2012 wef 07/08/2012]

(2) For the purposes of the definition of “net asset value” in paragraph (1) —

- (a) in determining the value of the assets owned by a corporation, any amount on account of goodwill or of any other intangible assets shall be disregarded; and
- (b) in determining the amount of the liabilities of a corporation —
 - (i) all contingent or prospective liabilities shall be taken into account; and
 - (ii) any amount on account of any liability related to the share capital of the corporation shall not be taken into account.

PART II

CONTROL OF PROVISION OF FINANCIAL ADVISORY SERVICES

Application of section 6 of Act

3.—(1) For the purposes of section 6 of the Act, in determining whether a person is engaging in any activity or conduct that is intended to or likely to induce the public in Singapore or any section

thereof to use any financial advisory service provided by the person, regard shall be had to the following considerations:

- (a) whether the person uses any active communication device such as electronic-mail for the purpose of advertising or otherwise transmitting information about the financial advisory service to any person in Singapore;
- (b) where the person issues an advertisement about the financial advisory service —
 - (i) whether the advertisement contains a prominent disclaimer containing a statement referred to in paragraph (2);
 - (ii) whether the advertisement contains any information specifically relevant to persons in Singapore;
 - (iii) whether the advertisement is referred to in, or is directly accessible from, any source which is calculated to draw the attention of persons in Singapore to the advertisement.

(2) For the purposes of paragraph (1)(b)(i), the disclaimer shall contain a statement to the effect that the advertisement to which it relates —

- (a) is directed at persons outside Singapore; or
- (b) may be acted upon only by persons outside Singapore.

Forms

4.—(1) The forms to be used for the purposes of 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”, “Financial Advisers”), 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.

[S 716/2010 wef 26/11/2010]

[S 383/2012 wef 07/08/2012]

(2) Any document required to be lodged with the Authority under any provision 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 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 or lodged in accordance with this regulation; or

(b) it is not accompanied by the relevant fee referred to in regulation 6.

(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.

[S 362/2005 wef 01/07/2005]

Lodgment of documents and undertaking of responsibilities for representative

4A.—(1) A notice of intent under section 23F(1)(a) of the Act by a principal to appoint an individual as an appointed representative in respect of a type of financial advisory service and a certificate under section 23F(1)(b) of the Act by the principal as to the fitness and propriety of the individual to be so appointed shall be in Form 3A.

(2) A notice of intent under section 23F(1)(a) of the Act by a principal to appoint an individual as a provisional representative in respect of a type of financial advisory service and a certificate under section 23F(1)(b) of the Act by the principal as to the fitness and propriety of the individual to be so appointed shall be in Form 3B.

(3) A principal who lodges with the Authority the certificate under section 23F(1)(b) of the Act shall retain copies of all information and documents which it relied on in giving the certificate for a period of 5 years from the date of lodgment.

(4) For the purposes of section 23F(1)(c) of the Act, a principal shall undertake all of the following responsibilities in relation to its representative:

- (a) to put in place measures to properly supervise the activities and conduct of the representative, including measures to ensure that all obligations assumed and liabilities incurred by him are properly fulfilled, whether actual or contingent and howsoever arising, in relation to the provision of any financial advisory service;
 - (b) to put in place measures, including proper training, to ensure that the representative understands and complies with all Singapore laws that are relevant to the financial advisory service provided by him;
 - (c) to ensure that the representative is accompanied at all times by any of the persons referred to in paragraph (5) when meeting any client or member of the public in the course of providing any financial advisory service;
 - (d) to ensure that the representative sends concurrently to any of the persons referred to in paragraph (5) all electronic mail that he sends to any client or member of the public in the course of providing any financial advisory service;
 - (e) to ensure that the representative does not communicate by telephone with any client or member of the public when providing any financial advisory service, other than by telephone conference in the presence of any of the persons referred to in paragraph (5).
- (5) The persons referred to in paragraph (4)(c), (d) and (e) are —
- (a) an appointed representative of the principal;
 - (b) a director of the principal who is approved under section 56 of the Act;
 - (c) an officer of the principal whose primary function is to ensure that the provision of the financial advisory service in question complies with the laws and requirements of the

Authority applicable to the financial advisory service in question;

- (d) an officer of the principal appointed by the principal to supervise the representative in providing the financial advisory service in question.

(6) In paragraph (4)(c), (d) and (e), “client or member of the public” excludes one who is an accredited investor, an expert investor or an institutional investor.

[S 716/2010 wef 26/11/2010]

Provisional representative

4B.—(1) The period which the Authority may specify in the public register of representatives under section 23D(2) of the Act as the period which any named individual can be a provisional representative in respect of any type of financial advisory service shall not exceed 3 months from the date his name is entered in the register as a provisional representative.

(2) For the purposes of section 23D(5) of the Act, where a provisional representative in respect of a type of financial advisory service has satisfied the examination requirements specified for that type of financial advisory service, his principal shall inform the Authority of that fact by serving on the Authority —

- (a) a duly completed Form 3D; and
- (b) before the expiry of the period specified against his name in the public register of representatives under section 23D(2) of the Act.

(3) For the purposes of section 23J(1)(s)(i) and (ii) of the Act, the Authority may refuse to enter the name and other particulars of an individual in the public register of representatives as a provisional representative in respect of a type of financial advisory service if —

- (a) he is not or was not previously licensed, authorised or otherwise regulated as a representative in relation to a comparable type of financial advisory service in a foreign jurisdiction for a continuous period of at least 12 months; or

- (b) the period between the date of his ceasing to be so licensed, authorised or regulated in a foreign jurisdiction and the date of his proposed appointment as a provisional representative exceeds 12 months.

[S 716/2010 wef 26/11/2010]

Time for documents to be lodged

5. Where the period of time within which a document required under the Act or these Regulations to be lodged with the Authority is not prescribed, the document shall be lodged within 14 days after the occurrence of the event to which the document relates.

Fees

6.—(1) Subject to this regulation, the fees specified in the Second Schedule are payable to the Authority for the purposes, in the manner and at the times specified therein.

(2) Where —

- (a) the name of a person is entered in the public register of representatives as a provisional representative;
- (b) he pays the annual fee referred to in section 23H(2) of the Act for the retention of his name in the public register of representatives as a provisional representative for a period of time; and
- (c) his name is subsequently entered in the register as an appointed representative at any time during that period or on the business day immediately following the expiry of that period,

then the person is treated as having paid the annual fee for the continuing retention of his name in the register as an appointed representative, in respect of the financial advisory service provided by the person while he was a provisional representative.

(3) For the purposes of sections 14(4) and 23H(5) of the Act, the late payment fee is \$100 for every day or part thereof that the payment is late subject to a maximum of \$3,000.

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

(5) The Authority may, as it thinks fit, waive the whole or any part of any fee payable under section 8, 14, 16, 23A or 23H of the Act.

[S 716/2010 wef 26/11/2010]

Manner of application for financial adviser's licence

7. An application for the grant of a financial adviser's licence shall be in Form 1 and shall be lodged with the Authority together with any relevant annex and information as may be specified in the Form or by the Authority from time to time.

[S 362/2005 wef 01/07/2005]

[S 716/2010 wef 26/11/2010]

Lapsing of financial adviser's licence

8.—(1) For the purposes of section 19(1)(b) of the Act, where the Authority has not revoked or suspended the licence of a financial adviser under section 19(2) or (3) of the Act, respectively, the licence shall lapse —

- (a) if the financial adviser has not commenced business in at least one of the financial advisory services authorised to be provided by the licence for a continuous period of 6 months after the grant of the licence (or such longer period as the Authority may allow), immediately upon the expiry of that period; or
- (b) if the financial adviser —
 - (i) has ceased to carry on business in providing all of the financial advisory services authorised to be provided by the licence;
 - (ii) has not resumed business in any of those financial advisory services for a continuous period of 2 months from the date of such cessation of business; and

(iii) has not notified the Authority of such cessation of business at any time during that period of 2 months, immediately upon the expiry of that period of 2 months.

[S 716/2010 wef 26/11/2010]

(2) *[Deleted by S 716/2010 wef 26/11/2010]*

Cessation of status of appointed representative

8A. For the purpose of section 23C(4)(e) of the Act, unless the Authority has revoked the status of an individual as an appointed representative under section 23J(1) of the Act or suspended that status under section 23J(2)(a) of the Act, the individual shall cease to be an appointed representative in respect of all types of financial advisory service if —

(a) before the end of the period of 6 months (or such longer period as the Authority may allow in any particular case) from —

(i) the date his name was entered in the public register of representatives as an appointed representative; or

(ii) if he was an appointed representative by virtue of the Financial Advisers (Representatives) (Transitional and Savings Provisions) Regulations 2010 (G.N. No. S 715/2010), the date when he was granted a representative's licence under section 7 of the Act in force immediately before 26th November 2010,

the appointed representative has not commenced to act as a representative in at least one of the financial advisory services that he was appointed to provide as a representative; or

(b) the appointed representative —

(i) has ceased to act as a representative in respect of all of the financial advisory services he was appointed to provide as a representative; and

(ii) has not resumed acting as a representative in respect of any of those financial advisory services for a

continuous period of one month from the date of cessation,

and his principal has not notified the Authority of such cessation at any time during that period of one month.

[S 716/2010 wef 26/11/2010]

Variation of financial adviser's licence

9.—(1) An application for the variation of a financial adviser's licence under section 16 of the Act shall be in Form 2 and shall be lodged with the Authority together with any relevant annex and information as may be specified in the Form or by the Authority from time to time.

(2) Where the Authority adds to, varies or revokes any condition or restriction of a financial adviser's licence under section 13(3) of the Act or imposes further conditions or restrictions on such a licence, the Authority may require the licensed financial adviser to return its licence to the Authority for cancellation and issuance of a new licence, and the licensed financial adviser shall comply with such a requirement.

(3) Where the Authority —

- (a) has approved an application of a licensed financial adviser under section 16(1)(a) of the Act to add to its licence one or more types of financial advisory service authorised to be provided by its licence; or
- (b) has approved an application of a licensed financial adviser under section 16(1)(b) of the Act to add to its licence one or more of the following types of investment product in relation to which it provides any financial advisory service:
 - (i) securities (including units in a collective investment scheme);
 - (ii) futures contracts;
 - (iii) contracts or arrangements for the purposes of foreign exchange trading;

- (iv) contracts or arrangements for the purposes of leveraged foreign exchange trading;
- (v) life policies;
- (vi) structured deposits,

the licensed financial adviser shall immediately return its licence to the Authority for cancellation and issuance of a new licence.

(4) Any licensed financial adviser which, without reasonable excuse, fails to return its licence under paragraph (2) or (3) shall be guilty of an offence.

[S 716/2010 wef 26/11/2010]

Change in particulars and additional financial advisory service of representative

10.—(1) An appointed representative shall notify his principal of any change in any of his particulars, being particulars set out in Form 3A, within 7 days after the occurrence of such change.

(2) A provisional representative shall notify his principal of any change in any of his particulars, being particulars set out in Form 3B, within 7 days after the occurrence of such change.

(3) An individual who is deemed to be an appointed representative under regulation 5(1) or (2) of the Financial Advisers (Representatives) (Transitional and Savings Provisions) Regulations 2010 (G.N. No. S 715/2010) shall notify his principal of any change in any of his particulars, being particulars set out in Form 3A, within 7 days after the occurrence of such change.

(4) Where an individual has applied for the renewal of a representative's licence under section 8 of the Act in force immediately before 26th November 2010 and the application is still pending on that date, he shall notify his principal of any change in any of his particulars, being particulars set out in Form 3A, within 7 days after the occurrence of such change.

(5) The principal of an individual referred to in paragraph (3) or (4) shall, no later than 7 days after the principal is notified or becomes aware of any change in the individual's particulars which has been or

ought to have been notified under that paragraph, furnish particulars of such change to the Authority in Form 18.

(6) Any person who, without reasonable excuse, contravenes paragraph (1), (2), (3), (4) or (5) shall be guilty of an offence.

(7) For the purposes of section 23F(5) of the Act, the principal of an appointed or a provisional representative shall notify the Authority of a change in the particulars of the representative in Form 18.

(8) A notice under section 23I(2) of the Act by a principal of its intention to appoint an appointed representative in respect of a type of financial advisory service in addition to that indicated against the appointed representative's name in the public register of representatives shall be in Form 7.

[S 716/2010 wef 26/11/2010]

11. *[Deleted by S 716/2010 wef 26/11/2010]*

Cessation of financial advisory service by financial adviser

12.—(1) Where a licensed financial adviser ceases to provide every type of financial advisory service authorised by its licence, it shall lodge with the Authority a notice in Form 5 within 14 days from the date of cessation.

(2) Where a licensed financial adviser ceases to provide any type of financial advisory service authorised by its licence but has not ceased to act as a financial adviser, it shall, within 14 days from the date of cessation, return its licence to the Authority, and lodge with the Authority a notice in Form 5.

(3) Where a licensed financial adviser ceases to provide financial advisory service in respect of any type of investment product authorised by its licence but has not ceased to act as a financial adviser, it shall, within 14 days from the date of cessation, return its licence to the Authority, and lodge with the Authority a notice in Form 5.

(4) Where a licensed financial adviser has not commenced to provide, by the end of the period of 6 months (or such longer period as the Authority may allow in any particular case) from the date of the grant of the licence, every type of financial advisory service to which

its licence relates, it shall immediately return its licence to the Authority and lodge with the Authority a notice in Form 5.

(5) Where a licensed financial adviser has commenced to provide, by the end of the period of 6 months (or such longer period as the Authority may allow in any particular case) from the date of the grant of the licence —

- (a) one or more but not all the types of financial advisory service; or
- (b) financial advisory service in respect of one or more but not all the types of investment product,

to which the licence relates, it shall immediately return its licence to the Authority and lodge with the Authority a notice in Form 5.

(6) Upon receipt of the notice and licence referred to in paragraph (2), (3), (4) or (5), the Authority shall cancel the licence and issue to the financial adviser a new licence in respect of the remaining type or types of financial advisory service and investment product or products authorised by its licence referred to in paragraph (2), (3) or (5), as the case may be.

(7) Any licensed financial adviser which, without reasonable excuse, fails to return its licence under paragraph (2), (3), (4) or (5) shall be guilty of an offence.

[S 716/2010 wef 26/11/2010]

Lodgment of particulars of cessation

12A.—(1) For the purposes of sections 23C(8) and 23D(4) of the Act read with section 23C(8) of the Act, particulars that an individual has ceased to be a representative of a principal, or has ceased to provide any type of financial advisory service which he is appointed to provide, shall be furnished to the Authority in Form 10.

(2) Where an appointed representative has ceased to be a representative by virtue of regulation 8A(a), his principal shall immediately lodge with the Authority a notice of this in Form 10.

[S 716/2010 wef 26/11/2010]

Application for appointment of chief executive officer or director

13.—(1) For the purposes of section 56(1) of the Act, a licensed financial adviser shall submit to the Authority an application for approval of the appointment of a person (referred to in this regulation as the appointee) as its chief executive officer or director, or to change the nature of the appointment of a person as a director from one that is non-executive to one that is executive, in Form 11.

[S 716/2010 wef 26/11/2010]

(2) For the purposes of section 56(2) of the Act, the Authority shall have regard to the following criteria in determining whether to grant its approval in respect of an application made under paragraph (1):

(a) whether the licensed financial adviser has provided the Authority with such information relating to the appointee or director as the Authority may require;

[S 716/2010 wef 26/11/2010]

(aa) whether the appointee or director has had a prohibition order under section 59 of the Act made against him that still remains in force;

[S 716/2010 wef 26/11/2010]

(b) whether the appointee or director is an undischarged bankrupt in Singapore or elsewhere;

[S 716/2010 wef 26/11/2010]

(c) whether execution against the appointee or director in respect of a judgment debt has been returned unsatisfied in whole or in part;

[S 716/2010 wef 26/11/2010]

(d) whether the appointee or director has, in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation;

[S 716/2010 wef 26/11/2010]

- (e) whether the appointee or director —
- (i) has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; or
 - (ii) has been convicted of an offence under the Act;
[S 716/2010 wef 26/11/2010]
- (f) the educational or other qualification, experience or expertise of the appointee or director, having regard to the nature of the duties he is to perform as a chief executive officer, director or executive director, as the case may be, of the licensed financial adviser;
[S 716/2010 wef 26/11/2010]
- (g) whether the appointee or director is a fit and proper person to be a chief executive officer, director or executive director, as the case may be, of the licensed financial adviser;
[S 716/2010 wef 26/11/2010]
- (h) the financial standing of the appointee or director;
[S 716/2010 wef 26/11/2010]
- (i) the past performance of the appointee or director, having regard to the nature of the duties he is to perform as a chief executive officer, director or executive director, as the case may be, of the licensed financial adviser;
[S 716/2010 wef 26/11/2010]
- (j) whether there is reason to believe that the appointee or director will not conduct himself with professionalism or act in an ethical manner in discharging the duties he is to perform as a chief executive officer, director or executive director, as the case may be, of the licensed financial adviser.
[S 716/2010 wef 26/11/2010]

Duties of chief executive officer and director

14. For the purposes of section 57(2) of the Act and without prejudice to any other matter that the Authority may consider relevant, in determining whether a chief executive officer or director of a licensed financial adviser has failed to discharge the duties of his office, the Authority shall have regard to whether the chief executive officer or director has —

- (a) implemented effective written policies, and ensured compliance with such policies, on all operational areas of the financial adviser, including the financial policies, accounting and internal controls of the financial adviser and compliance with all laws and rules governing the operations of the financial adviser;
- (aa) put in place compliance function and arrangements that are commensurate with the nature, scale and complexity of the business of the licensed financial adviser, including specifying the roles and responsibilities of officers and employees of the financial adviser in helping to ensure its compliance with all applicable laws, codes of conduct and standards of good practice in order to protect investors and reduce its risk of incurring legal or regulatory sanctions, financial loss, or reputational damage;
[S 716/2010 wef 26/11/2010]
- (b) identified, addressed and monitored the risks associated with the business activities of the financial adviser;
- (c) ensured that the business activities of the financial adviser are subject to compliance checks;
- (d) set out in writing the limits of the discretionary powers of each officer, committee, sub-committee or other group of persons of the financial adviser empowered to commit the financial adviser to any financial undertaking or to expose the financial adviser to a risk of any nature;
[S 383/2012 wef 07/08/2012]

(e) ensured —

- (i) that the financial adviser keeps a written record 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) the accuracy, correctness and completeness of any report, return or statement submitted by the financial adviser to the Authority; and

[S 383/2012 wef 07/08/2012]

(f) ensured effective controls and segregation of duties to mitigate potential conflicts of interest that may arise from the operations of the financial adviser.

[S 383/2012 wef 07/08/2012]

Financial advisers and representatives, etc., to be fit and proper persons

14A.—(1) For the purposes of section 23(9) of the Act —

(a) a person who is exempted from holding a financial adviser's licence under section 23(1)(a), (b), (c), (d), (e) or (ea) of the Act shall ensure that —

- (i) it is a fit and proper person in relation to the provision of every financial advisory service for which it is exempted; and

[S 716/2010 wef 26/11/2010]

- (ii) its representatives are fit and proper persons in relation to their acting as its representatives; and

(b) a person who is exempted from holding a financial adviser's licence under regulation 27(1)(d) shall ensure that —

- (i) he is a fit and proper person in relation to the provision of every financial advisory service for which he is exempted;

[S 716/2010 wef 26/11/2010]

- (ii) his representatives are fit and proper persons in relation to their acting as his representatives; and
- (iii) where the person is an entity —
 - (A) its directors or equivalent persons are fit and proper persons for office;
 - (B) its substantial shareholders or equivalent persons are fit and proper persons to be in such capacity; and
 - (C) persons (other than a person referred to in sub-paragraph (A) or (B)) alone or acting together with any connected person, who —
 - (CA) control, directly or indirectly, not less than 20% of the voting power or such equivalent decision-making power in the entity; or
 - (CB) acquire or hold, directly or indirectly, not less than 20% of the issued shares or such equivalent share of ownership of the entity,are fit and proper persons to control such power or hold such shares or share of ownership.

[S 274/2008 wef 28/05/2008]

- (2) A licensed financial adviser shall ensure that —
- (a) it is a fit and proper person in relation to the provision of every financial advisory service for which it is licensed;
 - (b) its representatives are fit and proper persons in relation to their acting as its representatives;
 - (c) its substantial shareholders or equivalent persons are fit and proper persons in their capacity as such; and
 - (d) its chief executive officer, directors or equivalent persons are fit and proper persons for office.

[S 716/2010 wef 26/11/2010]

[S 362/2005 wef 01/07/2005]

PART III

FINANCIAL REQUIREMENTS FOR LICENSED FINANCIAL ADVISERS

[S 716/2010 wef 26/11/2010]

Minimum financial requirements

15. For the purposes of section 9(1)(b) of the Act, the applicant shall meet the following minimum financial requirements for the grant of a financial adviser's licence:

(a) in the case of an applicant which intends to carry on or which, as a licensed financial adviser, is carrying on, a business of providing any or all of the following financial advisory services:

(i) advising others (other than in the manner specified in sub-paragraph (ii)), either directly or through publications or writings, whether in electronic, print or other form, concerning futures contracts, contracts or arrangements for the purposes of foreign exchange trading, or contracts or arrangements for the purposes of leveraged foreign exchange trading;

[S 362/2005 wef 01/07/2005]

(ii) advising others by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning futures contracts, contracts or arrangements for the purposes of foreign exchange trading, or contracts or arrangements for the purposes of leveraged foreign exchange trading,

[S 362/2005 wef 01/07/2005]

the paid-up capital of the applicant is not less than \$300,000 or, where the applicant is a foreign company, its net head office funds are not less than \$300,000; or

[S 716/2010 wef 26/11/2010]

(b) in any other case, the paid-up capital of the applicant is not less than \$150,000 or, where the applicant is a foreign

company, its net head office funds are not less than \$150,000.

[S 716/2010 wef 26/11/2010]

Continuing financial requirements

16.—(1) For the purposes of section 9(1)(b) of the Act, a licensed financial adviser, not being a foreign company, shall at all times maintain a net asset value of not less than —

- (a) in the case where it does not have an immediately preceding financial year, three-quarters of the minimum paid-up capital required under regulation 15; or
- (b) in any other case —
 - (i) one-quarter of its relevant annual expenditure of the immediately preceding financial year; or
 - (ii) three-quarters of the minimum paid-up capital required under regulation 15,

whichever is the higher.

(2) For the purposes of section 9(1)(b) of the Act, a licensed financial adviser which is a foreign company shall at all times maintain net head office funds of not less than —

- (a) in the case where it does not have an immediately preceding financial year, the minimum net head office funds required under regulation 15; or
- (b) in any other case —
 - (i) one-quarter of its relevant annual expenditure of the immediately preceding financial year; or
 - (ii) the minimum net head office funds required under regulation 15,

whichever is the higher.

(3) For the purposes of paragraphs (1)(b)(i) and (2)(b)(i), the relevant annual expenditure of a licensed financial adviser for the immediately preceding financial year means the total expenditure of the financial adviser for that year less the following:

- (a) staff bonuses (except to the extent that they are guaranteed);
- (b) employees' and directors' shares in profits (except to the extent that they are guaranteed); and
- (c) any commission or fee paid to its representatives which is directly related to the commission or fee received by the financial adviser.

Professional indemnity insurance

17. For the purposes of section 9(1)(c) of the Act, the limit of indemnity to be covered under the professional indemnity insurance policy for the grant of a financial adviser's licence in respect of all types of financial advisory service to be provided or provided by the applicant for such licence shall be an amount of not less than \$500,000, under which the deductible allowed shall be —

- (a) in the case of an applicant which is a foreign company —
 - (i) where the foreign company does not have an immediately preceding financial year, not more than 20% of its net head office funds before the date on which the licence is granted; or
 - (ii) in any other case, not more than 20% of the net head office funds of the applicant as at the end of its immediately preceding financial year; or
- (b) in the case of any other applicant —
 - (i) where the applicant does not have an immediately preceding financial year, not more than 20% of its paid-up capital; or
 - (ii) in any other case, not more than 20% of the net asset value of the applicant as at the end of its immediately preceding financial year.

[S 716/2010 wef 26/11/2010]

PART IV

CONDUCT OF BUSINESS

Unsecured advances, unsecured loans and unsecured credit facilities

18.—(1) No licensed financial adviser shall grant any unsecured advance, unsecured loan or unsecured credit facility —

- (a) to a director of the licensed financial adviser who is not an employee of the licensed financial adviser; or
- (b) to any other officer or an employee of the licensed financial adviser (including a director who is its employee) or any of its representatives,

which in the aggregate and outstanding at any one time, exceeds \$3,000.

(2) In this regulation —

“director” includes the spouse, father, step-father, mother, step-mother, son, adopted son, step-son, daughter, adopted daughter, step-daughter, brother, step-brother, sister or step-sister, of the director;

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

- (a) the last transacted price of the securities traded on the securities exchange or overseas securities exchange on the immediately preceding business day;
- (b) if there was no trading in the securities on the immediately preceding business day, then, subject to paragraph (c), the lower of the transacted price and last bid price of the securities; or
- (c) if there was no trading in the securities in the immediately preceding 30 days —
 - (i) the value of the securities 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 or provision of those assets as fresh security, as the case may be;

“unsecured advance”, “unsecured loan” or “unsecured credit facility” includes —

- (a) any advance or loan made without security;
- (b) any advance, loan or credit facility made with security, where the advance, loan or credit facility or any amount due and owing thereunder at any time exceeds —
 - (i) the market value of the assets constituting that security; or
 - (ii) where the Authority is satisfied that there is no established market value for those assets, on the basis of a valuation of those assets as approved by the Authority and notified to the licensed financial adviser before the grant of the advance, loan or credit facility;
- (c) any guarantee or performance bond entered into by the licensed financial adviser, or the provision of any security by the licensed financial adviser, in connection with any advance, loan or credit facility made by another party to any of its officers, employees or representatives; and
- (d) any credit facility without security, whether it has been drawn-down or not.

(3) Any licensed financial adviser which contravenes paragraph (1) shall be guilty of an offence.

(4) For the avoidance of doubt, this regulation is without prejudice to section 162 of the Companies Act (Cap. 50) (loans to directors).

[S 716/2010 wef 26/11/2010]

Non-application of section 27 of Act

18A. Section 27 of the Act shall not apply to a licensed financial adviser, an exempt financial adviser, or any of its representatives, when making a recommendation with respect to any investment product —

- (a) to the public or to a section of the public;
- (b) which would not be regarded by a reasonable person within the public or a section of the public, as the case may be, as a recommendation that has taken into account his specific investment objectives, financial situation or particular needs; and
- (c) which is accompanied by a prominent written disclaimer stating that —
 - (i) the recommendation is intended for general circulation;
 - (ii) the recommendation does not take into account the specific investment objectives, financial situation or particular needs of any particular person; and
 - (iii) advice should be sought from a financial adviser regarding the suitability of the investment product, taking into account the specific investment objectives, financial situation or particular needs of any person in receipt of the recommendation, before the person makes a commitment to purchase the investment product.

[S 362/2005 wef 01/07/2005]

[S 716/2010 wef 26/11/2010]

Product due diligence

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

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

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

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

- (a) personally satisfied himself that the new product is suitable for the targeted client; and

(b) personally approved the sale or marketing of the new product to the targeted client.

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

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

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

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

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

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

(7) A financial adviser shall maintain records of —

(a) any due diligence exercise carried out under paragraph (1) in respect of a new product sold or marketed by the financial adviser; and

(b) any approval referred to in paragraph (3)(b) for the sale or marketing of that new product by the members of the senior

management of the financial adviser, the designated person or the members of the designated committee, as the case may be,

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

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

(9) In this regulation —

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

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

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

(a) means any investment product other than —

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

that has not previously been sold or marketed by —

(AA) the financial adviser; or

(BB) any representative of the financial adviser; and

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

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

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

[S 433/2011 wef 28/07/2011]

Prohibition on receipt of client’s money or property under certain circumstances

19.—(1) Subject to paragraph (2), where a licensed financial adviser or any of its representatives, in its or his marketing of any collective investment scheme, receives client’s money or property, such money or property shall be handed over to —

- (a) the provider of the collective investment scheme;
- (b) a holder of a capital markets services licence under the Securities and Futures Act (Cap. 289) to provide custodial services for securities which is authorised by the client to receive the client’s money or property; or
- (c) a person exempt under the Securities and Futures Act from holding a capital markets services licence to provide custodial services for securities which is authorised by the client to receive the client’s money or property,

not later than the business day immediately following the day on which the licensed financial adviser or representative receives the money or property (referred to in this regulation as the specified date).

[S 716/2010 wef 26/11/2010]

(2) A licensed financial adviser or any of its representatives may hand over its or his client's money or property to a person referred to in paragraph (1)(a), (b) or (c) after the specified date if, but only if, it or he has the client's prior written consent to do so.

[S 716/2010 wef 26/11/2010]

(3) A licensed financial adviser or any of its representatives shall not, in its or his marketing of any collective investment scheme, receive client's money or property in the form of cash or any cheque made payable to any person (other than a person referred to in paragraph (1)(a), (b) or (c)), except where the cash or cheque is wholly for services rendered by the licensed financial adviser or representative.

[S 716/2010 wef 26/11/2010]

(4) In this regulation, "provider", in relation to a collective investment scheme, includes —

- (a) the manager of the scheme;
- (b) the trustee of the scheme; and
- (c) any person who is authorised by the manager or the trustee to receive client's money or property on its behalf.

(5) Any licensed financial adviser or representative which contravenes paragraph (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000.

[S 716/2010 wef 26/11/2010]

Insurance broking premium accounts

20.—(1) A financial adviser shall pay into a bank account maintained by it under section 32(1) of the Act all moneys received by it —

- (a) from or on behalf of an insured or intending insured for or on account of an insurer in connection with a contract of insurance or proposed contract of insurance; or
- (b) from or on behalf of an insurer for or on account of an insured or intending insured.

(2) No financial adviser shall withdraw moneys from a bank account maintained by it under section 32(1) of the Act without the prior written consent of the Authority.

(3) Paragraph (2) shall not apply to any withdrawal of moneys from a bank account maintained by the financial adviser under section 32(1) of the Act for —

- (a) any payment to or for a person entitled to receive payment of the moneys, including itself in so far as it is entitled to receive payment for itself;
- (b) any payment to or for an insurer in respect of amounts due to the insurer under or in relation to a contract of insurance;
- (c) any investment by way of deposits placed with any bank licensed under the Banking Act (Cap. 19); or
- (d) any repayment of moneys that were paid into the account in error.

(4) A financial adviser shall pay moneys received from the realisation of any investment made under paragraph (3)(c) into a bank account maintained by it under section 32(1) of the Act.

(5) If, upon the realisation of any investment made under paragraph (3)(c), the amount of moneys received in respect of the realisation is less than the amount of moneys invested, the financial adviser shall pay, into the account from which the moneys were withdrawn for investment, an amount equal to the difference between the amount invested and the amount realised.

(6) Subject to paragraphs (7), (8) and (9), a financial adviser shall pay into, or retain in, a bank account maintained by it under section 32(1) of the Act any interest or other income that is received by it under the bank account or from any deposit made under paragraph (3)(c).

(7) Subject to paragraph (8), interest or other income arising from any payment which is due to the insurer under or in relation to a contract of insurance where the cover commences on or after 1st October 2002, that is received by a financial adviser from —

- (a) any bank account maintained by it under section 32(1) of the Act; or
- (b) any deposit made under paragraph (3)(c),

shall belong to the insurer, but may be retained by the financial adviser for its own benefit with the insurer's prior consent, and need not be paid into, or retained in, a bank account maintained by it under section 32(1) of the Act.

(8) Interest or other income arising from any payment which is due to an insurer under or in relation to a contract of insurance where the cover commences on or after 1st October 2002 that is received by a financial adviser from —

- (a) any bank account maintained by it under section 32(1) of the Act; or
- (b) any deposit made under paragraph (3)(c),

after the credit period shall not be retained by the financial adviser for its own benefit and shall immediately be paid over to the insurer to whom such payment is due.

(9) Interest or other income arising from any payment which is due to an insurer under or in relation to a contract of insurance where the cover commences before 1st October 2002 that is received by a financial adviser from —

- (a) any bank account maintained by it under section 32(1) of the Act; or
- (b) any deposit made under paragraph (3)(c),

may be retained by the financial adviser for its own benefit and need not be paid into, or retained in, a bank account maintained by it under section 32(1) of the Act.

(10) A financial adviser which receives any payment which is due to the insurer under or in relation to a contract of insurance shall —

- (a) where the cover commences before 1st October 2002, pay the amount to the insurer not later than 31st December 2002; and
- (b) where the cover commences on or after 1st October 2002, pay the amount within the credit period.

(11) Paragraph (10)(a) shall not affect any agreement between the financial adviser and the insurer to pay any sum that is due to the insurer under or in relation to a contract of insurance before 31st December 2002.

(12) A financial adviser shall designate any bank account maintained by it under section 32(1) of the Act, and any deposit placed with a bank under paragraph (3)(c), as an insurance broking premium account, with or without other words of description.

(13) In this regulation —

“contract of insurance” includes a contract of insurance that is subsequently cancelled;

“credit period” means —

- (a) the period within which the financial adviser has agreed with the insurer to make payments of any amount due to the insurer under or in relation to a contract of insurance; or
- (b) 90 days from the date of commencement of cover under the contract of insurance,

whichever is the earlier;

“financial adviser” means a licensed financial adviser or an exempt financial adviser which carries on the business of arranging contracts of insurance in respect of life policies.

(14) Any financial adviser which contravenes this regulation shall be guilty of an offence.

Register of interests in securities

20A.—(1) Each of the following persons (referred to in this regulation and regulation 20B as a relevant person), namely:

- (a) a licensed financial adviser who provides any financial advisory service in respect of securities; and
- (b) a representative of such a financial adviser,

shall —

- (i) maintain in Form 12 a register of his interests in securities;
- (ii) enter in the register, within 7 days after the date that he acquires any interest in securities, particulars of the securities in which he has an interest and particulars of his interest in those securities;
- (iii) retain that entry in an easily accessible form for a period of not less than 5 years after the date on which such entry was first made; and
- (iv) ensure that a copy of the register is kept in Singapore.

(2) Where there is a change in any interest in securities of a relevant person, he shall —

- (a) enter in the register, within 7 days after the date of the change, particulars of the change including the date of the change and the circumstances by reason of which the change has occurred; and
- (b) retain that entry in an easily accessible form for a period of not less than 5 years after the date on which such entry was first made.

(3) A relevant person shall, upon the Authority's request —

- (a) produce for the Authority's inspection the register of his interests in securities; and
- (b) allow the Authority to make a copy of, or take extracts from, the register.

(4) The Authority may provide a copy of an extract from a register obtained under paragraph (3) to any person who, in the opinion of the Authority, should in the public interest be informed of the dealing in securities disclosed in the register.

(5) In this regulation and regulation 20B, “securities” means securities which are listed for quotation, or quoted, on a securities exchange or a recognised market operator.

(6) Any relevant person who contravenes paragraph (1), (2) or (3) shall be guilty of an offence.

[S 716/2010 wef 26/11/2010]

Place at which register is kept

20B.—(1) A relevant person shall keep the register of his interest in securities referred to in regulation 20A —

(a) in the case of an individual, at his principal place of business; or

(b) in the case of a corporation, at any of its places of business.

(2) The register of interests in securities may be kept in electronic form if the relevant person ensures that full access to such register may be gained by the Authority at the place referred to in paragraph (1)(a) or (b), as the case may be.

(3) An applicant for a financial adviser’s licence to provide any financial advisory service in respect of securities shall, when applying for the licence, give notice to the Authority in Form 13 of —

(a) the place at which it intends to keep the register of its interests in securities or, if the register is in electronic form, the place at which full access to the register may be gained; and

(b) such other particulars as are set out in the Form.

(4) A licensed financial adviser who is not a person referred to in regulation 20A(1)(a) shall, when applying under section 16 of the Act to have its licence varied by adding any financial advisory service in respect of securities, give notice to the Authority in Form 13 of —

(a) the place at which it intends to keep the register of its interests in securities or, if the register is in electronic form, the place at which full access to the register may be gained; and

(b) such other particulars as are set out in the Form.

(5) Where there is a change in the place for keeping the register or from which it can be accessed as notified to the Authority whether at the time of application for the financial adviser's licence or under paragraph (3) or (4), the person who gave the notice shall within 14 days from the change lodge with the Authority a notice of the change in Form 4.

(6) A relevant person who is a licensed financial adviser shall maintain records of the places at which its representatives keep their registers of their interests in securities and the places at which copies of those registers are kept in Singapore under regulation 20A(1)(iv).

(7) A relevant person who is a licensed financial adviser shall, upon the Authority's request —

- (a) produce for the Authority's inspection the records referred to in paragraph (6); and
- (b) allow the Authority to make a copy of, or take extracts from, such records.

(8) Any person who contravenes paragraph (1), (2), (3), (4), (6) or (7) shall be guilty of an offence.

(9) Any person who contravenes paragraph (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000.

[S 716/2010 wef 26/11/2010]

Particulars of financial journalists

20C.—(1) The Authority may, by notice in writing, require the proprietor or publisher of a newspaper to supply the Authority with the name and address of any financial journalist who has contributed any advice, analysis or report concerning securities that has been published in the newspaper, within such period as may be specified in the notice.

(2) Any proprietor or publisher of a newspaper who, without reasonable excuse, contravenes a notice under paragraph (1) shall be guilty of an offence.

[S 716/2010 wef 26/11/2010]

Use of term “independent”

21.—(1) No licensed financial adviser or exempt financial adviser shall use the word “independent” or any of its derivatives in any language, or any other word or expression in any language that is of like import to “independent” —

(a) in the name, description or title under which it carries on business in Singapore;

(b) to promote or advertise its services; or

(c) in respect of its provision of any financial advisory service, unless —

- (i) the financial adviser does not receive any commission or other benefit from a product provider which may create product bias and does not pay any commission to or confer other benefit upon its representatives which may create product bias;
- (ii) the financial adviser operates free from any direct or indirect restriction relating to any investment product which is recommended; and
- (iii) the financial adviser operates without any conflict of interest created by any connection to or association with any product provider.

(2) Where a licensed financial adviser or an exempt financial adviser —

- (a) is prohibited from using the word “independent” under paragraph (1); or
- (b) is not prohibited from using the word “independent” under paragraph (1) but decides not to do so,

it shall ensure that its representatives do not use the word “independent” or any of its derivatives in any language, or any other word or expression in any language that is of like import to “independent” in the manner specified in paragraph (1)(a), (b) or (c).

(3) No representative of a licensed financial adviser or an exempt financial adviser shall use the word “independent” or any of its

derivatives in any language, or any other word or expression in any language that is of like import to “independent”, in acting as a representative of the financial adviser if the financial adviser has informed him that it may not do so.

(4) Any financial adviser which contravenes paragraph (1) shall be guilty of an offence.

(4A) Any financial adviser which, without reasonable excuse, contravenes paragraph (2) shall be guilty of an offence.

(5) Any representative who contravenes paragraph (3) shall be guilty of an offence.

22. *[Deleted by S 716/2010 wef 26/11/2010]*

PART V

ACCOUNTS AND AUDIT

Preparation and lodgment of accounts

23. For the purposes of sections 45(1) and 48(1) of the Act, a licensed financial adviser shall prepare and lodge with the Authority —

- (a) statements in Forms 14, 15 and 16, where applicable; and
- (b) by personal delivery or by pre-paid post, a true and fair profit and loss account and a balance-sheet made up to the last day of its financial year in accordance with the provisions of the Companies Act (Cap. 50), where applicable, together with —
 - (i) the auditor’s report in Form 17, which shall contain the documents necessary for the due completion of the Form; and
 - (ii) copies of the statements referred to in paragraph (a).

[S 362/2005 wef 01/07/2005]

24. *[Deleted by S 362/2005 wef 01/07/2005]*

Books to be kept by licensed financial adviser

25. For the purposes of section 45(2) of the Act, a licensed financial adviser shall keep books in the English language which contain the following, where applicable:

- (a) the particulars of every client of the financial adviser, including the name and address of the client;
- (b) the particulars of every transaction carried out by the financial adviser on behalf of its clients;
- (c) a copy of the confirmation of every transaction referred to in paragraph (b), every purchase and sale contract note and every statement of account received from a product provider in respect of such transaction;
- (d) every written agreement, or a copy thereof, entered into by the financial adviser with any of its clients;
- (e) every written agreement, or a copy thereof, entered into by the financial adviser with any product provider;
- (f) every report, letter, circular, memorandum, publication, writing, advertisement or other literature or advice, or a copy thereof, distributed or caused to be distributed by the financial adviser to any of its existing or prospective clients, indicating the date of first distribution of such document if not otherwise shown on the document;
- (g) all income and expenses of the financial adviser; and
- (h) all assets and liabilities (including contingent liabilities) of the financial adviser and, in the case of assets —
 - (i) indicating by whom these assets or the documents of title to these assets are held; and
 - (ii) where the assets are held by some other person, whether or not they are held as security against any loan or advance.

Retention period of books

26.—(1) For the purposes of section 45(3) of the Act, the statements of accounts of a licensed financial adviser, and the books and records referred to in regulation 25 (other than financial transaction documents), shall be retained for a period of not less than 5 years.

[S 58/2007 wef 01/03/2007]

(2) The financial transaction documents of a licensed financial adviser shall be retained for the minimum retention period as defined in section 36(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A).

(3) In this regulation, “financial transaction documents” has the same meaning as in section 36(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act.

PART VI

EXEMPTIONS

Exemption from requirement to hold financial adviser’s licence for advising certain persons

27.—(1) Subject to this regulation, the following persons are exempt from holding a financial adviser’s licence under section 23(1)(f) of the Act:

- (a) an approved headquarters company or approved Finance and Treasury Centre which carries on business involving the provision of all or any type of financial advisory service, but only to the extent that such provision of financial advisory service has been approved as a qualifying service in relation to that headquarters company or Finance and Treasury Centre under section 43E(2)(a) or 43G(2)(a) of the Income Tax Act (Cap. 134), as the case may be;
- (b) a corporation which provides all or any type of financial advisory service to any of its related corporations;
- (c) a person who provides all or any type of financial advisory service to any of its connected persons;

- (d) a person resident in Singapore who acts, whether directly or indirectly, as a financial adviser in giving advice in Singapore, either directly or through publications or writings or by issuing or promulgating research analyses or research reports, concerning any investment product (other than life policies), to not more than 30 accredited investors on any occasion; or

[S 362/2005 wef 01/07/2005]

[S 274/2008 wef 28/05/2008]

[S 383/2012 wef 07/08/2012]

- (e) a person who provides all or any type of financial advisory service to an institutional investor.

[S 362/2005 wef 01/07/2005]

[S 274/2008 wef 28/05/2008]

[S 383/2012 wef 07/08/2012]

- (f) [Deleted by S 383/2012 wef 07/08/2012]

[S 362/2005 wef 01/07/2005]

[S 274/2008 wef 28/05/2008]

[S 383/2012 wef 07/08/2012]

(2) A person who is exempt under paragraph (1)(a), (b) or (c) may, in ascertaining the number of accredited investors for the purpose of exemption under paragraph (1)(d), exclude those persons on behalf of whom he provides all or any type of financial advisory service under paragraph (1)(a), (b) or (c).

(3) A person referred to in paragraph (1)(d) which is exempt from the requirement to hold a capital markets services licence to carry on business in fund management under paragraph 5(1)(i) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations shall not be, or shall cease to be, exempt from holding a financial adviser's licence under section 23(1)(f) of the Act if —

- (a) the aggregate of the number of qualified investors on behalf of which it carries on business in fund management and the number of accredited investors to which it provides financial advisory services exceeds 30 in total;

- (b) more than 15 of the qualified investors on behalf of which it carries on business in fund management are collective investment schemes, closed-end funds, or limited partnerships referred to in paragraph 5(3)(e) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations; or
- (c) the total value of its managed assets (as defined in paragraph 5(7K) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations) exceeds \$250 million.

[S 383/2012 wef 07/08/2012]

(3A) A person otherwise exempted under paragraph (1)(d) shall not be, or shall cease to be, so exempt if —

- (a) the person has not commenced business in accordance with paragraph (1)(d) within 6 months from the date of commencement of business as specified in the notice that the person has lodged with the Authority in accordance with regulation 37(2); or
- (b) the person has ceased to carry on business in accordance with paragraph (1)(d), and has not resumed business in the same regulated activity in accordance with that paragraph within a continuous period of 6 months from the date of cessation.

[S 362/2005 wef 01/07/2005]

(4) Section 33 of the Act shall, with the necessary modifications, apply to the persons referred to in paragraph (1).

(5) A person otherwise exempt under paragraph (1) shall not be, or shall cease to be, so exempt if he also carries on a business of providing any financial advisory service other than in accordance with paragraph (1)(a), (b), (c), (d) or (e).

[S 274/2008 wef 28/05/2008]

[S 383/2012 wef 07/08/2012]

(6) A person referred to in paragraph (1)(c), (d) or (e) who is an individual shall not be, or shall cease to be, exempt from holding a financial adviser's licence under section 23(1)(f) of the Act if —

- (a) he is or becomes an employee or representative of a licensed financial adviser or an exempt financial adviser;
- (b) he has been adjudged a bankrupt, whether in Singapore or elsewhere; or
- (c) he has been convicted —
 - (i) whether in Singapore or elsewhere, of any offence in connection with the promotion, formation or management of a corporation or involving fraud or dishonesty, or the conviction for which involved a finding that he had acted fraudulently or dishonestly;
 - (ii) of any offence under the Companies Act (Cap. 50) involving lack of diligence, or the conviction for which involved a finding that he had acted with a lack of diligence, in the discharge of his duties as a director of a corporation;
 - (iii) of any offence under the Act; or
 - (iv) of any offence under the Banking Act (Cap. 19), the Finance Companies Act (Cap. 108), the Insurance Act (Cap. 142), the Monetary Authority of Singapore Act (Cap. 186), the Money-changing and Remittance Businesses Act (Cap. 187), the Penal Code (Cap. 224) or the Securities and Futures Act (Cap. 289).

[S 274/2008 wef 28/05/2008]

[S 383/2012 wef 07/08/2012]

(7) A person referred to in paragraph (1)(a), (b), (c), (d) or (e) which is a corporation shall not be, or shall cease to be, exempt from holding a financial adviser's licence under section 23(1)(f) of the Act if —

- (a) the corporation or any of its substantial shareholders is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
- (b) a receiver, receiver and manager, judicial manager, or such other person having the powers and duties of a receiver, receiver and manager or judicial manager, has been

appointed, whether in Singapore or elsewhere, in relation to, or in respect of any property of, the corporation or any of its substantial shareholders;

- (c) the corporation or any of its substantial shareholders has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his or its creditors, being a compromise or scheme of arrangement that is still in operation;
- (d) execution against the corporation or any of its substantial shareholders in respect of a judgment debt has been returned unsatisfied in whole or in part; or
- (e) the corporation or any of its substantial shareholders has been convicted —
 - (i) whether in Singapore or elsewhere, of any offence in connection with the promotion, formation or management of a corporation or involving fraud or dishonesty, or the conviction for which involved a finding that he or it had acted fraudulently or dishonestly;
 - (ii) of any offence under the Companies Act (Cap. 50) involving lack of diligence, or the conviction for which involved a finding that he had acted with a lack of diligence, in the discharge of his duties as a director of a corporation;
 - (iii) of any offence under the Act; or
 - (iv) of any offence under the Banking Act (Cap. 19), the Finance Companies Act (Cap. 108), the Insurance Act (Cap. 142), the Monetary Authority of Singapore Act (Cap. 186), the Money-changing and Remittance Businesses Act (Cap. 187), the Penal Code (Cap. 224) or the Securities and Futures Act (Cap. 289).

[S 362/2005 wef 01/07/2005]

[S 274/2008 wef 28/05/2008]

[S 383/2012 wef 07/08/2012]

(8) In this regulation —

“approved Finance and Treasury Centre” means an approved Finance and Treasury Centre under section 43G of the Income Tax Act (Cap. 134);

“approved headquarters company” means an approved headquarters company under section 43E of the Income Tax Act;

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

“qualified investor” has the same meaning as in paragraph 5(3) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg 10);

“resident in Singapore” has the same meaning as in section 2(1) of the Income Tax Act.

Exemption of banks and merchant banks

27A.—(1) A bank or merchant bank which is exempt from holding a financial adviser’s licence under section 23(1)(a) or (b), respectively, of the Act shall be exempt from section 23(4) of the Act and regulation 37 in respect of its carrying on of the business of advising others, either directly or through publications or writings or by issuing or promulgating research analyses or research reports, on contracts or arrangements for the purposes of foreign exchange trading arranged by it or by —

(a) any bank that is licensed under the Banking Act (Cap. 19);
or

(b) any merchant bank that is approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186).

[S 362/2005 wef 01/07/2005]

[S 716/2010 wef 26/11/2010]

(2) A representative of a bank or merchant bank exempt from section 23(4) of the Act and regulation 37 under paragraph (1) shall be

exempt from section 23B(1) of the Act in respect of his carrying out of the activity referred to in paragraph (1) for the bank or merchant bank.

[S 716/2010 wef 26/11/2010]

Exemption for giving advice or analysis on bonds

28.—(1) A corporation (not being a licensed financial adviser or a person exempt from holding a financial adviser's licence under section 23(1)(a), (b), (c), (d) or (e) of the Act) which carries on the business of advising others, either directly or through publications or writings or by issuing or promulgating research analyses or research reports, concerning bonds to —

(a) an expert investor; or

[S 362/2005 wef 01/07/2005]

(b) an accredited investor,

shall be exempt under section 23(1)(f) of the Act from holding a financial adviser's licence in respect of such activity.

[S 362/2005 wef 01/07/2005]

(2) A licensed financial adviser which carries out the activity referred to in paragraph (1) shall be exempt from complying with sections 26 to 29 and 36 of the Act in respect of such activity.

[S 274/2008 wef 28/05/2008]

(3) A person exempt from holding a financial adviser's licence under section 23(1)(a), (b), (c), (d) or (e) of the Act which carries out the activity referred to in paragraph (1) shall, notwithstanding section 23(4) of the Act, be exempt from complying with sections 26 to 29 and 36 of the Act in respect of such activity.

[S 274/2008 wef 28/05/2008]

(4) An appointed or a provisional representative of a financial adviser referred to in paragraphs (2) and (3) who carries out the activity referred to in paragraph (1) for the financial adviser shall be exempt from complying with sections 26 to 29 and 36 of the Act in respect of such activity.

[S 274/2008 wef 28/05/2008]

[S 716/2010 wef 26/11/2010]

Exemption for Service Companies

29.—(1) A Service Company which carries on the business of advising others, either directly or through publications or writings or by issuing or promulgating research analyses or research reports, concerning any investment product shall, if such business is solely incidental to its business as an agent of a member of Lloyd’s, be exempt from holding a financial adviser’s licence under section 23(1)(f) of the Act.

[S 362/2005 wef 01/07/2005]

(2) Sections 25 to 29, 34, 36 and 70 of the Act shall, with the necessary modifications, apply to a Service Company referred to in paragraph (1).

(3) Sections 23G, 25 to 29, 34, 36 and 70 of the Act shall, with the necessary modifications, apply to a representative of a Service Company referred to in paragraph (1).

[S 716/2010 wef 26/11/2010]

(4) In this regulation, “agent”, in relation to a member of Lloyd’s, “Lloyd’s”, “member of Lloyd’s” and “Service Company” have the same meanings as in regulation 2 of the Insurance (Lloyd’s Asia Scheme) Regulations (Rg 9).

30. *[Deleted by S 362/2005 wef 01/07/2005]*

Exemption for introducing activities

31.—(1) A person (not being an individual, a licensed financial adviser or a person exempt under section 23(1)(a), (b), (c), (d) or (e) of the Act) shall be exempt under section 23(1)(f) of the Act from holding a financial adviser’s licence (referred to in this regulation as an introducer) in respect of all introducing activities it carries out for one or more licensed financial advisers or persons exempt under section 23(1)(a), (b), (c), (d) or (e) of the Act (referred to in this regulation as an introducee), subject to the following conditions:

- (a) the introducer shall, when carrying out introducing activities (whether through any of its representatives or otherwise), disclose to every client —

- (i) that the introducer is carrying out introducing activities for one or more introducees;
 - (ii) that, when carrying out introducing activities, the introducer and its representatives shall not —
 - (A) give advice or provide recommendations on any investment product to the client;
 - (B) market any collective investment scheme; or
 - (C) arrange any contract of insurance in respect of life policies,
other than to the extent of carrying out introducing activities;
 - (iii) whether or not the introducer or any of its representatives is or will be remunerated by one or more introducees for carrying out introducing activities; and
 - (iv) where the introducer or any of its representatives is or will be remunerated by one or more introducees, the amount of remuneration if so requested by the client;
- (b) where the introducer carries out introducing activities for more than one introducee, the introducer (whether through any of its representatives or otherwise) shall, with the consent of the client, introduce that client to every introducee that provides the type or types of financial advisory service required by that client;
- (c) the introducer shall not receive or deal with client's money or property in relation to introducing activities; and
- (d) the introducer shall establish and maintain a register of its representatives referred to in paragraph (2).
- (2) A representative of an introducer —
- (a) shall, when carrying out introducing activities, disclose to every client —
 - (i) that he is carrying out introducing activities on behalf of the introducer;

- (ii) that the introducer acts for one or more introducees;
 - (iii) that, when carrying out introducing activities, he shall not —
 - (A) give advice or provide recommendations on any investment product to the client;
 - (B) market any collective investment scheme; or
 - (C) arrange any contract of insurance in respect of life policies,
other than to the extent of carrying out introducing activities;
 - (iv) whether or not he or the introducer is or will be remunerated by one or more introducees for carrying out introducing activities; and
 - (v) where he or the introducer is or will be remunerated by one or more introducees, the amount of remuneration if so requested by the client;
- (b) shall, where he carries out introducing activities on behalf of the introducer for more than one introducee, with the consent of the client, introduce that client to every introducee that provides the type or types of financial advisory service required by that client; and
- (c) shall not receive or deal with client's money or property in relation to introducing activities.
- (3) An individual (other than a representative or an employee referred to in paragraph (2), (5), (6) or (8)) shall be exempt from —
- (a) section 23B(1) in respect of all introducing activities he carries out on behalf of one or more introducees;
[S 716/2010 wef 26/11/2010]
 - (b) complying with sections 25, 27 and 36 of the Act in respect of all introducing activities he carries out on behalf of one or more persons exempt from holding a financial adviser's licence under section 23(1)(a), (b), (c), (d) or (e) of the Act; and

- (c) section 23G of the Act in respect of all introducing activities he carries out on behalf of more than one introducee,

[S 716/2010 wef 26/11/2010]

subject to the following conditions:

- (i) the individual shall, when carrying out introducing activities, disclose to the client —
- (A) that he is carrying out introducing activities for one or more introducees;
 - (B) that he shall not give advice or provide recommendations on any investment product to the client, market any collective investment scheme or arrange any contract of insurance in respect of life policies, other than to the extent of carrying out introducing activities;
 - (C) whether or not he is or will be remunerated by one or more introducees for carrying out introducing activities; and
 - (D) where he is or will be remunerated by one or more introducees, the amount of remuneration if so requested by the client;
- (ii) where the individual carries out introducing activities for more than one introducee, he shall, with the consent of the client, introduce that client to every introducee that provides the type or types of financial advisory service required by that client; and
- (iii) the individual shall not receive or deal with client's money or property in relation to introducing activities.

(4) A licensed financial adviser shall be exempt from complying with sections 16, 25, 27 and 36 of the Act in respect of all introducing activities it carries out on its own behalf or for one or more introducees, subject to —

- (a) the conditions specified in paragraph (1)(a), (b) and (c) which shall apply as if every reference in those conditions

to introducer were a reference to the licensed financial adviser; and

- (b) the condition that it shall establish and maintain a register of the appointed or provisional representatives referred to in paragraph (5) and the employees referred to in paragraph (6).

[S 716/2010 wef 26/11/2010]

(5) An appointed or a provisional representative of a licensed financial adviser referred to in paragraph (4) shall be exempt from complying with sections 25, 27 and 36 of the Act in respect of all introducing activities he carries out on behalf of the financial adviser, subject to —

- (a) the conditions specified in paragraph (2)(a)(i), (iii), (iv) and (v) and (c) which, in a case where he acts for the financial adviser when the financial adviser is carrying out introducing activities on its own behalf, shall apply as if every reference in those conditions to introducer were a reference to the financial adviser and every reference to “by the introducee” were deleted; and
- (b) the conditions specified in paragraph (2)(a), (b) and (c) which, in a case where he acts for the financial adviser when the financial adviser is carrying out introducing activities for one or more introducees, shall apply as if every reference in those conditions to introducer were a reference to the financial adviser.

[S 716/2010 wef 26/11/2010]

(6) An employee of a licensed financial adviser referred to in paragraph (4) (not being an appointed or a provisional representative) shall be exempt from section 23B(1) in respect of all introducing activities he carries out on behalf of the financial adviser, subject to —

- (a) the conditions specified in paragraph (2)(a)(i), (iii), (iv) and (v) and (c) which, in a case where he acts for the financial adviser when the financial adviser is carrying out introducing activities on its own behalf, shall apply as if every reference in those conditions to introducer were a

reference to the financial adviser and every reference to “by the introducee” were deleted; and

- (b) the conditions specified in paragraph (2)(a), (b) and (c) which, in a case where he acts for the financial adviser when the financial adviser is carrying out introducing activities for one or more introducees, shall apply as if every reference in those conditions to introducer were a reference to the financial adviser.

[S 716/2010 wef 26/11/2010]

(7) A person exempt from holding a financial adviser’s licence under section 23(1)(a), (b), (c), (d) or (e) of the Act shall be exempt from complying with sections 25, 27 and 36 of the Act and regulation 37 in respect of all introducing activities it carries out on its own behalf or for one or more introducees, subject to —

- (a) the conditions specified in paragraph (1)(a), (b) and (c) which shall apply as if every reference in those conditions to introducer were a reference to the person; and
- (b) the condition that it shall establish and maintain a register of the representatives referred to in paragraph (8).

(8) A representative (other than a teller referred to in paragraph (8A)) of a person referred to in paragraph (7) shall be exempt from complying with sections 25, 27 and 36 of the Act in respect of all introducing activities he carries out on behalf of the person, subject to —

- (a) the conditions specified in paragraph (2)(a)(i), (iii), (iv) and (v) and (c) which, in a case where he acts for the person when the person is carrying out introducing activities on its own behalf, shall apply as if every reference in those conditions to introducer were a reference to the person and every reference to “by the introducee” were deleted; and
- (b) the conditions specified in paragraph (2)(a), (b) and (c) which, in a case where he acts for the person when the person is carrying out introducing activities for one or more

introducees, shall apply as if every reference in those conditions to introducer were a reference to the person.

[S 433/2011 wef 28/07/2011]

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

- (a) the introduction is done pursuant to an express request by the relevant client for information on investment products;
- (b) the teller is not remunerated by the introducee or the person for carrying out introducing activities;
- (c) in a case where the teller acts for the person when the person is carrying out introducing activities on its own behalf, the conditions specified in paragraph (2)(a)(i) and (iii) and (c) shall apply as if every reference in those conditions to introducer were a reference to the person; and
- (d) in a case where the teller acts for the person when the person is carrying out introducing activities for one or more introducees, the conditions specified in paragraph (2)(a)(i), (ii) and (iii), (b) and (c) shall apply as if every reference in those conditions to introducer were a reference to the person.

[S 433/2011 wef 28/07/2011]

(9) Any person who contravenes any condition or restriction specified in paragraph (1), (2) or (3) applicable to him shall be guilty of an offence.

[S 362/2005 wef 01/07/2005]

(10) Sections 26, 29, 33, 34 and 70 of the Act shall, with the necessary modifications, apply to an introducer and an individual exempt under paragraph (3).

(11) Sections 23G, 26, 29, 33, 34 and 70 of the Act shall, with the necessary modifications, apply to a representative of an introducer and an employee exempt under paragraph (6).

[S 716/2010 wef 26/11/2010]

(11A) The registers referred to in paragraphs (1), (4) and (7) shall contain the following details or particulars in relation to each representative or employee, as the case may be:

- (a) his name;
- (b) his identity card number or passport number;
- (c) the date of his commencing introducing activities; and
- (d) the date of his ceasing introducing activities, where applicable.

(12) In this regulation —

“client” includes a prospective client;

“introducing activity” means —

- (a) introducing any client to an introducee in relation to the provision of any type or types of financial advisory service by the introducee; or
- (b) the activity referred to in sub-paragraph (a) and either or both of the following:
 - (i) recording the particulars of any client and forwarding such particulars to an introducee with the client’s consent;
 - (ii) providing factual information to any client on investment products, including (where applicable) information on —
 - (A) the name of the investment product;
 - (B) the product provider;
 - (C) the date on which the product is launched;
 - (D) the minimum subscription amount; and
 - (E) any fee or charge which may be imposed,

and “introduce” shall be construed accordingly;

[S 433/2011 wef 28/07/2011]

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

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

[S 433/2011 wef 28/07/2011]

32. *[Deleted by S 362/2005 wef 01/07/2005]*

Exemption for Registered Fund Management Company

32A. A Registered Fund Management Company shall be exempt under section 23(1)(f) of the Act from holding a financial adviser’s licence in respect of the marketing of any collective investment scheme that is managed by it in the course of carrying on a business in fund management for accredited investors or institutional investors for which it is exempted from the requirement to hold a capital markets services licence under paragraph 5(1)(i) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations.

[S 692/2004 wef 18/11/2004]

[S 383/2012 wef 07/08/2012]

Exemption for advising institutional investor, related corporation, etc.

32B.—(1) A licensed financial adviser, or a financial adviser which is exempt from holding a financial adviser’s licence under section 23(1)(a), (b), (c), (d) or (e) of the Act (referred to in this regulation as exempt financial adviser), shall be exempt from sections 25 to 29, 32, 34 and 36 of the Act and regulation 37 when providing any financial advisory service in respect of any investment product to —

- (a) an institutional investor;

- (b) a related corporation of that licensed financial adviser or exempt financial adviser, as the case may be;
- (c) a person that is connected to that licensed financial adviser or exempt financial adviser, as the case may be; or
- (d) an approved headquarters company or approved Finance and Treasury Centre which carries on business involving the provision of all or any type of financial advisory service, where such business has been approved as a qualifying service in relation to that headquarters company or Finance and Treasury Centre under section 43E (2)(a) or 43G(2)(a) of the Income Tax Act (Cap. 134), as the case may be.

(2) A financial adviser which is exempt from holding a financial adviser's licence under section 23(1)(ea) of the Act shall be exempt from sections 25, 26 and 36 of the Act when providing financial advisory service in respect of any investment product to —

- (a) an institutional investor;
- (b) a related corporation of that financial adviser;
- (c) a person that is connected to that financial adviser; or
- (d) an approved headquarters company or approved Finance and Treasury Centre which carries on business involving the provision of all or any type of financial advisory service, where such business has been approved as a qualifying service in relation to that headquarters company or Finance and Treasury Centre under section 43E(2)(a) or 43G(2)(a) of the Income Tax Act, as the case may be.

(3) An appointed or a provisional representative of a licensed financial adviser or an exempt financial adviser referred to in paragraph (1) shall be exempt from sections 25, 26, 27, 29, 34 and 36 of the Act in respect of his carrying out of the activity referred to in that paragraph for the licensed financial adviser or exempt financial adviser, as the case may be.

(4) An appointed or a provisional representative of a financial adviser referred to in paragraph (2) shall be exempt from sections 25,

26 and 36 of the Act in respect of his carrying out of the activity referred to in that paragraph for the financial adviser.

[S 362/2005 wef 01/07/2005]

[S 716/2010 wef 26/11/2010]

Exemption for foreign research houses

32C.—(1) A foreign research house shall be exempt under section 23(1)(f) of the Act from holding a financial adviser's licence in respect of advising others by issuing or promulgating any research analyses or research reports concerning any investment product, to any investor under an arrangement between the foreign research house and a financial adviser in Singapore, subject to the following conditions:

- (a) the financial adviser in Singapore is —
 - (i) licensed under the Act; or
 - (ii) exempt from holding a financial adviser's licence under section 23(1)(a), (b), (c), (d) or (e) of the Act, to provide the financial advisory service of advising others by issuing or promulgating research analyses or research reports concerning any investment product;
- (b) the foreign research house is licensed, registered, approved, authorised or otherwise supervised by a regulatory authority in the foreign country in which it carries on business, in accordance with the laws of that foreign country;
- (c) the research analysis or research report shall contain a statement to the effect that recipients of the analysis or report are to contact the financial adviser in Singapore in respect of any matters arising from, or in connection with, the analysis or report; and
- (d) where the research analysis or research report is issued or promulgated to a person who is not an accredited investor, expert investor or institutional investor, the analysis or report shall contain a statement to the effect that the financial adviser in Singapore accepts legal responsibility

for the contents of the analysis or report without any disclaimer limiting or otherwise curtailing such legal responsibility.

(2) In this regulation —

“foreign country” means a country or territory other than Singapore;

“foreign research house” means a foreign company which carries on a business of providing the financial advisory service of advising others by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning any investment product;

“regulatory authority”, in relation to a foreign country, means an authority of the foreign country exercising any function that corresponds to a regulatory function of the Authority under the Act.

[S 274/2008 wef 28/05/2008]

Exemption from section 25 of Act for advising accredited investor or expert investor

33.—(1) Section 25 of the Act shall not apply to a licensed financial adviser, an exempt financial adviser, or any of its appointed or provisional representatives, when providing any financial advisory service in respect of —

- (a) any designated investment product (within the meaning of section 25(6) of the Act) to an accredited investor; or
- (b) any designated investment product (within the meaning of section 25(6) of the Act), that is a capital markets product, to an expert investor.

(2) Where a licensed financial adviser, an exempt financial adviser, or any of its appointed or provisional representatives, provides any financial advisory service in the circumstances specified in paragraph (1), the licensed financial adviser, exempt financial adviser or representative, as the case may be, shall disclose the exemption under that paragraph to the accredited investor or expert

investor, as the case may be, unless the accredited investor or expert investor is —

- (a) an institutional investor;
- (b) a related corporation of the licensed financial adviser or exempt financial adviser, as the case may be;
- (c) a person who is connected to the licensed financial adviser or exempt financial adviser, as the case may be; or
- (d) an approved headquarters company or approved Finance and Treasury Centre which carries on business involving the provision of all or any type of financial advisory service, where such business has been approved as a qualifying service in relation to that headquarters company or Finance and Treasury Centre under section 43E(2)(a) or 43G(2)(a) of the Income Tax Act (Cap. 134), as the case may be.

(3) Any person who contravenes paragraph (2) shall be guilty of an offence.

[S 362/2005 wef 01/07/2005]

[S 716/2010 wef 26/11/2010]

Exemption from section 27 of Act in certain circumstances

34.—(1) Section 27 of the Act shall not apply to a licensed financial adviser, an exempt financial adviser, or any of its appointed or provisional representatives, when making a recommendation in respect of —

- (a) any investment product to an accredited investor;
- (b) any capital markets product to an expert investor; or
- (c) any Government securities.

(2) Where a licensed financial adviser, an exempt financial adviser, or any of its appointed or provisional representatives, provides any financial advisory service in the circumstances specified in paragraph (1), the licensed financial adviser, exempt financial adviser or appointed or provisional representative, as the case may be, shall disclose the exemption under that paragraph to the accredited

investor or expert investor, as the case may be, unless the accredited investor or expert investor is —

- (a) an institutional investor;
- (b) a related corporation of the licensed financial adviser or exempt financial adviser, as the case may be;
- (c) a person who is connected to the licensed financial adviser or exempt financial adviser, as the case may be; or
- (d) an approved headquarters company or approved Finance and Treasury Centre which carries on business involving the provision of all or any type of financial advisory service, where such business has been approved as a qualifying service in relation to that headquarters company or Finance and Treasury Centre under section 43E(2)(a) or 43G(2)(a) of the Income Tax Act (Cap. 134), as the case may be.

(3) Any person who contravenes paragraph (2) shall be guilty of an offence.

[S 362/2005 wef 01/07/2005]

[S 716/2010 wef 26/11/2010]

Exemption from section 36 of Act

35.—(1) Section 36 of the Act shall not apply to a licensed financial adviser, an exempt financial adviser, or any of its appointed or provisional representatives when sending a circular or other similar written communication in which a recommendation is made in respect of —

- (a) any securities to —
 - (i) an expert investor; or
 - (ii) an accredited investor; or
- (b) any Government securities.

[S 362/2005 wef 01/07/2005]

[S 362/2005 wef 01/07/2005]

[S 716/2010 wef 26/11/2010]

(2) Where a licensed financial adviser, an exempt financial adviser, or any of its appointed or provisional representatives, provides any financial advisory service in the circumstances specified in paragraph (1), the licensed financial adviser, exempt financial adviser or appointed or provisional representative, as the case may be, shall disclose the exemption under that paragraph to the accredited investor or expert investor, as the case may be, unless the accredited investor or expert investor is —

- (a) an institutional investor;
- (b) a related corporation of the licensed financial adviser or exempt financial adviser, as the case may be;
- (c) a person who is connected to the licensed financial adviser or exempt financial adviser, as the case may be; or
- (d) an approved headquarters company or approved Finance and Treasury Centre which carries on business involving the provision of all or any type of financial advisory service, where such business has been approved as a qualifying service in relation to that headquarters company or Finance and Treasury Centre under section 43E(2)(a) or 43G(2)(a) of the Income Tax Act (Cap. 134), as the case may be.

[S 362/2005 wef 01/07/2005]

(3) Any person who contravenes paragraph (2) shall be guilty of an offence.

[S 362/2005 wef 01/07/2005]

[S 716/2010 wef 26/11/2010]

Exemption for advising overseas investors

36.—(1) Sections 25 to 29, 32, 34 and 36 of the Act shall not apply to a licensed financial adviser or an exempt financial adviser when providing any financial advisory service to any person outside Singapore who is —

- (a) an individual and —
 - (i) not a citizen of Singapore;

- (ii) not a permanent resident of Singapore; and
 - (iii) not wholly or partly dependent on a citizen or permanent resident of Singapore; or
- (b) in any other case, a person with no commercial or physical presence in Singapore.

(2) Sections 25 to 27, 29, 34 and 36 of the Act shall not apply to an appointed or a provisional representative of a licensed financial adviser or an exempt financial adviser when carrying out the activity referred to in paragraph (1) as a representative of the licensed financial adviser or exempt financial adviser, as the case may be.

(3) Where a licensed financial adviser, an exempt financial adviser, or any of its appointed or provisional representatives, provides any financial advisory service in the circumstances specified in paragraph (1) or (2), the licensed financial adviser, exempt financial adviser or appointed or provisional representative, as the case may be, shall disclose the exemption under that paragraph to the person outside Singapore referred to in paragraph (1).

(4) Any person who contravenes paragraph (3) shall be guilty of an offence.

[S 362/2005 wef 01/07/2005]

[S 716/2010 wef 26/11/2010]

Reporting requirements for exempt financial advisers

37.—(1) A person who is exempt from holding a financial adviser's licence under section 23(1)(a), (b), (c), (d) or (e) of the Act shall lodge with the Authority —

- (a) where the person arranges contracts of insurance in respect of life policies, but is not an insurer which arranges contracts of insurance in respect of life policies on its own behalf, a statement of placement of direct life insurance business handled by the person in Form 16 within 5 months after the end of its financial year or such longer period as the Authority may approve;
- (b) where the person commences business in any financial advisory service or any additional financial advisory

service, 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;

[S 716/2010 wef 26/11/2010]

(c) where there is any change in any particulars required to be notified in —

(i) Form 26 under sub-paragraph (b);

(ii) Form 20 under regulation 37(1)(b) of these Regulations in force immediately before 26th November 2010; or

(iii) Form 21 under regulation 37(1)(c) of these Regulations in force immediately before 26th November 2010,

a notice of such change in Form 27, not later than 14 days after the date of change or such later date as the Authority may allow in any particular case;

[S 716/2010 wef 26/11/2010]

(d) where the person ceases business in any or all financial advisory service for which notice has been given in —

(i) Form 20 under sub-paragraph (b);

(ii) Form 20 under regulation 37(1)(b) of these Regulations in force immediately before 26th November 2010; or

(iii) Form 21 under regulation 37(1)(d) of these Regulations in force immediately before 26th November 2010,

a notice of such cessation in Form 28, not later than 14 days after the cessation or such later date as the Authority may allow; and

[S 716/2010 wef 26/11/2010]

(e) where the person arranges contracts of insurance in respect of life policies and is required to maintain an insurance broking account under section 32(1) of the Act, an audited

statement of the insurance broking premium account in Form 24 within 5 months after the end of its financial year or such longer period as the Authority may approve.

(2) A person referred to in regulation 27(1)(d) shall lodge with the Authority —

- (a) a notice of commencement of business in Form 20 not later than 14 days after the date of commencement of its business as a financial adviser;
- (b) a notice of change of particulars in Form 21 providing any change in the particulars required to be notified under sub-paragraph (a) not later than 14 days after the date of the change;
- (c) a notice of cessation of business in Form 22 not later than 14 days after the date of cessation of its business as a financial adviser; and
- (d) a declaration in Form 23 within 14 days after the end of its financial year or such longer period as the Authority may approve.

(3) A person referred to in regulation 27(1)(d) who has, at any time before 1st October 2002, lodged a notice of commencement of business in the prescribed form —

- (a) under regulation 22A(5)(a)(i) of the revoked Futures Trading Regulations (Cap. 116, Rg 1, 1998 Ed.) in relation to the activity specified in paragraph (a) or (b) of the definition of “futures trading adviser” in section 2(1) of the repealed Futures Trading Act (Cap. 116, 1986 Ed.), or both activities; or
- (b) under regulation 41(5)(a) of the revoked Securities Industry Regulations (Cap. 289, Rg 1, 1995 Ed.) in relation to the activity specified in paragraph (a) or (b) of the definition of “investment adviser” in section 2(1) of the repealed Securities Industry Act (Cap. 289, 1986 Ed.), or both activities,

shall be deemed to have lodged a notice of commencement of business in compliance with paragraph (2)(a).

(4) Any person who contravenes paragraph (1) or (2) shall be guilty of an offence.

38. *[Deleted by S 716/2010 wef 26/11/2010]*

PART VII

MISCELLANEOUS

39. *[Deleted by S 716/2010 wef 26/11/2010]*

40. *[Deleted by S 716/2010 wef 26/11/2010]*

Compoundable offences

41. The following offences may be compounded by the Authority in accordance with section 89 of the Act:

(a) any offence under the Act which is punishable by a fine only;

(b) any offence under section 6(4), 23B(4) or 33(5) of the Act;
or

[S 76/2004 wef 24/02/2004]

[S 716/2010 wef 26/11/2010]

(c) any offence under section 84(1)(a) of the Act, where the non-compliance referred to in that section constitutes an offence which is compoundable under paragraph (a) or (b).

Acceptance of composition of offence

42.—(1) The Authority may compound an offence under section 89 of the Act only if the person reasonably suspected of having committed the offence —

(a) accepts the offer of composition made by the Authority in writing, in the form set out in the Third Schedule; and

(b) pays the composition sum to the Authority,

within 14 days after the offer of composition is made or such longer period as the Authority may specify.

(2) Where the person referred to in paragraph (1) is not an individual, the acceptance of composition shall be made —

- (a) in the case of a body corporate, by an officer of that body corporate;
- (b) in the case of a partnership, by a partner of that partnership; or
- (c) in the case of an unincorporated association (other than a partnership), by an officer of that association or a member of its governing body.

(3) In paragraph (2), “officer” has the same meaning as in section 83(5) of the Act.

Opportunity to be heard

43.—(1) Where the Act provides for a person to be given an opportunity to be heard by the Authority, the Authority shall post or deliver to that person a notice —

- (a) stating the decision it intends to make that affects him and the grounds for the decision; and
- (b) inviting him to give to the Authority, within such period as may be specified in the notice (not being less than 10 days from the date of the receipt of the notice), any written statement, accompanied by relevant supporting documents, as to why the Authority should reconsider the decision it intends to make.

(2) Any written statement referred to in paragraph (1)(b) shall be signed by the person to whom the opportunity to be heard is given, a duly authorised employee of that person, or an advocate and solicitor acting for that person.

(3) The Authority shall consider any written statement and supporting document referred to in paragraph (1)(b) in making its decision.

(4) In this regulation, “decision” includes any action of, direction by or order issued by the Authority under the Act.

Exemption for corporate and partnership agencies

44.—(1) Subject to paragraph (2), any company which is, immediately before 1st October 2002, authorised under an agreement in writing with a registered insurer to arrange, as agent for that insurer, any contract of insurance (other than a contract of reinsurance) in respect of life policies shall be exempt under section 23(1)(f) of the Act from holding a financial adviser’s licence, for a period of 6 months from 1st October 2002, in respect of such arrangement.

(2) The exemption of a company referred to in paragraph (1) shall cease to apply if the company is granted a financial adviser’s licence.

(3) Any individual who is —

(a) a representative of a company referred to in paragraph (1);
and

(b) authorised under an agreement in writing with the registered insurer referred to in paragraph (1) to arrange, as agent for that insurer, any contract of insurance (other than a contract of reinsurance) in respect of life policies,

shall be exempt from section 12 of the Act, for a period of 6 months from 1st October 2002, in respect of his acting as a representative for the company and for the registered insurer.

(4) Subject to paragraph (5), any partnership of which every partner is, immediately before 1st October 2002, authorised under an agreement in writing with a registered insurer to arrange, as agent for that insurer, any contract of insurance (other than a contract of reinsurance) in respect of life policies shall be exempt under section 23(1)(f) of the Act from holding a financial adviser’s licence, for a period of 6 months from 1st October 2002, in respect of such arrangement.

(5) The exemption of a partnership referred to in paragraph (4) shall cease to apply when any partner of the partnership is no longer authorised under an agreement in writing with the registered insurer to

arrange, as agent for that insurer, any contract of insurance (other than a contract of reinsurance) in respect of life policies.

(6) Any individual who is —

- (a) a representative of a partnership referred to in paragraph (4), whether or not he is also a partner of the partnership; and
- (b) authorised under an agreement in writing with the registered insurer referred to in paragraph (4) to arrange, as agent for that insurer, any contract of insurance (other than a contract of reinsurance) in respect of life policies,

shall be exempt from section 12 of the Act, for a period of 6 months from 1st October 2002, in respect of his acting as a representative for the partnership and for the registered insurer.

(7) Sections 25, 26, 27, 29, 33, 34 and 70 of the Act shall, with the necessary modifications, apply to the company referred to in paragraph (1), the partnership referred to in paragraph (4), and their representatives.

Time to comply with certain requirements

45.—(1) Section 10(1)(a) of the Act, in respect of financial requirements imposed under regulation 16, shall not apply, for a period of 6 months from 1st October 2002, to any person —

- (a) who is deemed to hold a financial adviser's licence; or
- (b) where such licence is renewed,

under regulation 3 or 5 of the Financial Advisers (Transitional and Savings Provisions) Regulations (Rg 1).

(2) Regulation 16(1) and (2) shall not apply, for a period of 6 months from 1st October 2002, to any person —

- (a) who is deemed to hold a financial adviser's licence; or
- (b) where such licence is renewed,

under regulation 3 or 5 of the Financial Advisers (Transitional and Savings Provisions) Regulations.

(3) Section 10(1)(b) of the Act and regulation 17(1) and (2) shall not apply, for a period of 6 months from 1st October 2002, to any person —

(a) who is deemed to hold a financial adviser’s licence; or

(b) where such licence is renewed,

under regulation 4 of the Financial Advisers (Transitional and Savings Provisions) Regulations (Rg 1).

FIRST SCHEDULE

[Deleted by S 362/2005 wef 01/07/2005]

SECOND SCHEDULE

Regulation 6(1)

FEEES

<i>No.</i>	<i>First column Provision of Act</i>	<i>Second column Matter</i>	<i>Third column Amount</i>	<i>Fourth column Manner and time of payment</i>
1.	Section 8(1)	Application for grant of financial adviser’s licence	\$500	By cheque at time of application
2.	Section 14(1)	Annual licence fee for financial adviser’s licence	\$2,000	(a) Where licensed financial adviser has no GIRO arrangement with the Authority, by cheque by the date specified in the fee advice (b) Where licensed financial adviser has GIRO

SECOND SCHEDULE — *continued*

			arrangement with the Authority, by GIRO by 19th December of the preceding year
3.	Section 16(2)	Application to add type(s) of financial advisory service or type(s) of investment product to financial adviser's licence	\$250
			By GIRO by the 16th day of the month following that in which application is made
4.	Section 23 H(1)	Lodgment of documents under section 23F of the Act for appointment of appointed or provisional representative	\$100
			(a) If principal is an applicant for financial adviser's licence, by cheque at time of application
			(b) If principal is a licensed financial adviser, and —
			(i) it has no GIRO arrangement with the Authority, by cheque by the date specified in the fee advice;
			(ii) it has GIRO arrangement with the Authority, by

SECOND SCHEDULE — *continued*

GIRO by the 16th day of the month following that in which lodgment is made

5. Section 23 Annual fee for retention of name of appointed or provisional representative in public register of representatives in the year in which the name is first entered in the register* Amount derived from the formula:

H(2)

(a) Where principal has no GIRO arrangement with the Authority, by cheque by the date specified in the fee advice

A x \$100

—

365

(b) Where principal has GIRO arrangement with the Authority, by GIRO by the 16th day of the month following that in which name is entered in the register

where A is the number of days between the date the name is first entered in the register

SECOND SCHEDULE — *continued*

			and 31st December of same year (both dates inclusive)	
6.	Section 23 H(2)	Annual fee for retention of name of appointed or provisional representative in public register of representatives in any other year	\$100	(a) Where principal has no GIRO arrangement with the Authority, by cheque by the date specified in the fee advice (b) Where principal has GIRO arrangement with the Authority, by GIRO by 19th December of the preceding year or, if the name is entered in the register in the preceding year during the period between 20th and 31st December (both dates inclusive), by the 16th day of the following month
7.	Section 23 H(3)	Resubmission of a form for	\$100	(a) If principal has no GIRO

SECOND SCHEDULE — *continued*

lodgment of documents under section 23F(1) of the Act for appointment of appointed or provisional representative

arrangement with the Authority, by cheque by the date specified in the fee advice

(b) If principal has GIRO arrangement with the Authority, by GIRO by the 16th day of the month following that in which resubmission is made

- | | | | |
|------------------|---|--|---------------------------------|
| 8. Section 63(4) | Inspection of and extraction from records | \$20 per name submitted for inspection** | By cheque at time of inspection |
|------------------|---|--|---------------------------------|

* For the avoidance of doubt, this fee is still required to be paid if the date on which the name is entered in the register is 31st December.

** This fee is inclusive of the goods and services tax chargeable under the Goods and Services Tax Act (Cap. 117A). No goods and services tax is chargeable for the other items.

[S 716/2010 wef 26/11/2010]

THIRD SCHEDULE

Regulation 42

1. I, [Name and NRIC/Passport Number] [If made by an officer of a body corporate, partner of a partnership, or officer or member of governing body of an unincorporated association, to state his position], acknowledge that the Monetary Authority of Singapore has by way of a letter dated made an offer of composition under section 89 of the Financial Advisers Act (Cap. 110) in respect of an offence [or offences] under the Act or any subsidiary legislation made

THIRD SCHEDULE — *continued*

thereunder, committed by [myself/my business trading as Business Name/Name of body corporate/partnership/unincorporated association, of which I am a representative authorised by the body corporate/partnership/unincorporated association.].

2. The offer made by the Monetary Authority of Singapore is as follows:

<i>S/No.</i>	<i>Offence and date of offence</i>	<i>Composition sum offered</i>
1.	<i>(Brief description of the offence, and state the provision of the Act breached and the date of the breach)</i>	<i>(State composition sum)</i>

3. I agree to the offer of composition as stated above and enclose, with this form, payment of the composition sum.

Signature of person accepting the offer :
of composition or authorised person
accepting the offer of composition on
behalf of a body corporate, a
partnership, or an unincorporated
association

Date :
.....
(dd/mm/yy)

If the person to whom the offer of composition is made and who accepts the composition is not literate in English, the person interpreting it shall attest as follows:

I, [Name and NRIC/Passport Number], have interpreted this form to the person accepting the offer of composition in [state language] and have ascertained that he understands the contents of the form and agrees to the composition.

Signature of interpreter :
Date :
(dd/mm/yy)

[G.N. Nos. S 462/2002; S 83/2003; S 537/2003]

LEGISLATIVE HISTORY
FINANCIAL ADVISERS REGULATIONS
(CHAPTER 110, RG 2)

This Legislative History is provided for the convenience of users of the Financial Advisers Regulations. It is not part of these Regulations.

1. G. N. No. S 462/2002 — Financial Advisers Regulations 2002

Date of commencement : 1 October 2002

2. G. N. No. S 83/2003 — Financial Advisers (Amendment) Regulations 2003

Date of commencement : 24 February 2003

3. G. N. No. S 537/2003 — Financial Advisers (Amendment No. 2) Regulations 2003

Date of commencement : 22 December 2003

4. G. N. No. S 76/2004 — Financial Advisers (Amendment) Regulations 2004

Date of commencement : 24 February 2004

5. 2004 Revised Edition — Financial Advisers Regulations

Date of operation : 29 February 2004

6. G. N. No. S 692/2004 — Financial Advisers (Amendment No. 2) Regulations 2004

Date of commencement : 18 November 2004

7. G. N. No. S 362/2005 — Financial Advisers (Amendment) Regulations 2005

Date of commencement : 1 July 2005

8. G. N. No. S 58/2007 — Financial Advisers (Amendment) Regulations 2007

Date of commencement : 1 March 2007

9. G. N. No. S 274/2008 — Financial Advisers (Amendment) Regulations 2008

Date of commencement : 28 May 2008

10. G. N. No. S 716/2010 — Financial Advisers (Amendment) Regulations 2010

Date of commencement : 26 November 2010

**11. G.N. No. S 433/2011 — Financial Advisers (Amendment) Regulations
2011**

Date of commencement : 28 July 2011

**12. G.N. No. S 383/2012 — Financial Advisers (Amendment) Regulations
2012**

Date of commencement : 7 August 2012