

**SECURITIES AND FUTURES ACT  
(CHAPTER 289, SECTIONS 2(1), 84, 85, 87, 90, 91, 93 TO 97, 99,  
100, 102, 104, 118, 120, 123, 128, 337, 339(3) AND 341)**

**SECURITIES AND FUTURES (LICENSING AND CONDUCT OF  
BUSINESS) REGULATIONS**

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[1st October 2002; 1st April 2003: — regulation 54 ]

## PART I

## PRELIMINARY

**Citation**

1. These Regulations may be cited as the Securities and Futures (Licensing and Conduct of Business) Regulations.

**Definitions**

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

“advertisement” means any dissemination or conveyance of information in connection with a promotion of, or an invitation or a solicitation in respect of, any product or service, 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;
- (e) photographs or cinematograph films; or
- (f) sound broadcasting, television, the Internet or other media;

*[S 381/2018 wef 09/07/2018]*

“bond” 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;

“electronic record” has the same meaning as in section 2 of the Electronic Transactions Act (Cap. 88);

“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) 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) book-entry Treasury Bills as defined in section 2 of the Local Treasury Bills Act (Cap. 167);

“guideline issued by the Authority” means a guideline issued by the Authority under section 321 of the Act;

“Internet-based trading platform” means an order management system for the purpose of dealing in securities, trading in futures contracts or carrying out leveraged foreign exchange trading, offered by a holder of a capital markets services licence or a person who is exempt from holding a capital markets services licence pursuant to section 99(1)(a), (b) or (c) of the Act, which is accessible through the Internet, and is not limited to accredited investors, expert investors and institutional investors;

*[S 170/2013 wef 28/03/2014]*

“position” means a futures contract or a leveraged foreign exchange transaction which is still outstanding, and which has not been liquidated —

- (a) against any transaction for purposes of set-off;
- (b) by delivery of the commodity underlying the futures contract or leveraged foreign exchange transaction;
- (c) by settlement of the futures contract or leveraged foreign exchange transaction in accordance with the rules of a futures exchange or a clearing house or the practices of a futures market, a foreign exchange market or a recognised trading system provider, as the case may be;
- (d) in the case of a futures contract, by substituting the futures contract with cash commodity; or
- (e) in the case of a leveraged foreign exchange transaction, by substituting the leveraged foreign exchange transaction for a futures contract;

“product advertisement” means an advertisement in respect of any capital markets products;

*[S 381/2018 wef 09/07/2018]*

“quarter”, in relation to a calendar year, means a period of 3 months ending on the last day of March, June, September or December in that calendar year;

“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;

*[S 385/2012 wef 07/08/2012]*

“Rules and Market Practices” means the Rules and Market Practices (including any amendment and modification thereto) of the Singapore Government Securities Market as promulgated from time to time by the Singapore Government Securities Market Committee of the Singapore Government Securities Market;

*[S 381/2018 wef 09/07/2018]*

“specified person” means —

- (a) a holder of a capital markets services licence;
- (b) an appointed representative;
- (c) a provisional representative; or
- (d) a temporary representative.

*[S 381/2018 wef 09/07/2018]*

## PART II

### LICENSING, REPRESENTATIVE NOTIFICATION AND RELATED MATTERS

*[S 709/2010 wef 26/11/2010]*

#### **Forms**

**3.—(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”, “Securities, Futures and Fund Management”), and any reference in these Regulations to a numbered form shall be construed as a reference to the current version of the form bearing the corresponding number which is displayed at that website.

*[S 385/2012 wef 07/08/2012]*

(2) Any document required to be lodged with the Authority under any provision of Parts IV to VI 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.

*[S 503/2012 wef 19/11/2012]*

(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 373/2005 wef 01/07/2005]*

### **Lodgment of documents and undertaking of responsibilities for representative**

**3A.**—(1) A notice of intent under section 99H(1)(a) of the Act by a principal to appoint an individual as an appointed representative in respect of a type of regulated activity and a certificate under section 99H(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 99H(1)(a) of the Act by a principal to appoint an individual as a provisional representative in

respect of a type of regulated activity and a certificate under section 99H(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 notice of intent under section 99H(1)(a) of the Act by a principal to appoint an individual as a temporary representative in respect of a type of regulated activity and a certificate under section 99H(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 3C.

(4) A principal who lodges with the Authority the certificate under section 99H(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.

(5) For the purposes of section 99H(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 carrying out any regulated activity;
- (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 regulated activity carried out by him;
- (c) to ensure that the representative is accompanied at all times by any of the persons referred to in paragraph (6) when meeting any client or member of the public in the course of carrying on business in any regulated activity;
- (d) to ensure that the representative sends concurrently to any of the persons referred to in paragraph (6) all electronic mail that he sends to any client or member of the public in the course of carrying on business in any regulated activity;
- (e) to ensure that the representative does not communicate by telephone with any client or member of the public in the

course of carrying on business in any regulated activity, other than by telephone conference in the presence of any of the persons referred to in paragraph (6).

- (6) The persons referred to in paragraph (5)(c), (d) and (e) are —
- (a) an appointed representative of the principal;
  - (b) a director of the principal approved under section 96 of the Act;
  - (c) an officer of the principal whose primary function is to ensure that the carrying on of business in the regulated activity in question complies with the laws and requirements of the Authority applicable to the regulated activity in question;
  - (d) an officer of the principal appointed by the principal to supervise the representative in carrying on of business in the regulated activity in question.

(7) In paragraph (5)(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 709/2010 wef 26/11/2010]*

### **Provisional representative**

**3B.**—(1) The period which the Authority may specify in the public register of representatives under section 99E(2) of the Act as the period which any named individual can be a provisional representative in respect of any type of regulated activity shall not exceed 3 months from the date his name is entered in the register as a provisional representative.

(2) For the purpose of section 99E(5) of the Act, where a provisional representative in respect of a type of regulated activity has satisfied the examination requirements specified for that type of regulated activity, his principal shall inform the Authority of that fact —

- (a) by serving on the Authority 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 99E(2) of the Act.

(3) For the purposes of section 99M(1)(t)(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 regulated activity, if —

- (a) he is not or was not previously licensed, authorised or otherwise regulated as a representative in relation to a comparable type of regulated activity 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 709/2010 wef 26/11/2010]*

### **Temporary representative**

**3C.**—(1) For the purpose of section 99M(1)(s)(iii) 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 temporary representative in respect of a type of regulated activity, if the period of his proposed appointment, together with the period of any past appointment (or part thereof) that falls within the period of 24 months before the date of expiry of his proposed appointment, exceeds 6 months.

(2) The period which the Authority may specify in the public register of representatives under section 99F(2) of the Act as the period which any named individual can be a temporary representative in respect of any type of regulated activity shall not exceed 3 months from the date his name is entered in the register as a temporary representative.

*[S 709/2010 wef 26/11/2010]*

**3D.** *[Deleted by S 503/2012 wef 19/11/2012]*

### **Register of interests in securities**

**4.—**(1) Each of the following persons (referred to in this regulation and regulation 4A as a relevant person), namely:

- (a) a holder of a capital markets services licence to deal in securities;
- (b) a holder of a capital markets services licence to advise on corporate finance;
- (c) a holder of a capital markets services licence for fund management;
- (d) a holder of a capital markets services licence for real estate investment trust management;
- (e) a holder of a capital markets services licence for providing credit rating services;
- (f) a representative of a holder of a capital markets services licence referred to in sub-paragraph (a), (b), (c), (d) or (e),

shall —

- (i) maintain in Form 15 a register of his interests in securities;
- (ii) enter into 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 interests 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, the relevant person 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 of 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 4A, "securities" means securities which are listed for quotation, or quoted on a securities exchange or a recognised market operator.

*[S 503/2012 wef 19/11/2012]*

#### **Place at which register is kept**

- 4A.**—(1) A relevant person shall keep the register of his interests in securities referred to in regulation 4 —
- (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 capital markets services licence to carry on business in dealing in securities, advising on corporate finance, fund management, real estate investment trust management or providing credit rating services shall, when applying for the licence, give notice to the Authority in Form 1 or Form 1A, or both, whichever is applicable, of —

- (a) the place at which it intends to keep the register of his 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.

*[S 170/2013 wef 28/03/2013]*

(4) A holder of a capital markets services licence shall, when applying under section 90 of the Act to have its licence varied by adding any regulated activity in respect of dealing in securities, advising on corporate finance, fund management, real estate investment trust management or providing credit rating services, give notice to the Authority in Form 10 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) The person who gives the notice under paragraph (3) or (4) shall, within 14 days from the date of every subsequent change of the place for keeping the register referred to in paragraph (3)(a) or (4)(a), as the case may be, lodge with the Authority a notice of the change of place in Form 10.

(6) A relevant person who is a holder of a capital markets services licence shall maintain records of the place 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 4(1)(iv).

(7) A relevant person who is a holder of a capital markets services licence shall, upon the Authority's request —

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

*[S 503/2012 wef 19/11/2012]*

**Change of particulars and additional regulated activity of representative**

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

(4) An individual who is deemed to be an appointed representative under regulation 5(1)(a) or (c) or (3) of the Securities and Futures (Representatives) (Transitional and Savings Provisions) Regulations 2010 (G.N. No. S 712/2010) 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.

(5) Where an individual has applied for the renewal of a representative's licence under section 87 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.

(6) An individual who is deemed to be a temporary representative under regulation 5(2) or (3) of the Securities and Futures (Representatives) (Transitional and Savings Provisions) Regulations 2010 shall notify his principal of any change in any of his particulars, being particulars set out in Form 3C, within 7 days after the occurrence of such change.

(7) The principal of an individual referred to in paragraph (4), (5) or (6) 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 16.

(8) For the purposes of section 99H(5) of the Act, the principal of an appointed, a provisional or a temporary representative shall notify the Authority of a change in the particulars of the representative in Form 16.

(9) A notice under section 99L(2) of the Act by a principal of its intention to appoint an appointed representative in respect of a type of regulated activity in addition to that indicated against the appointed representative's name in the public register of representatives shall be in Form 6.

*[S 709/2010 wef 26/11/2010]*

## **Fees**

6.—(1) Subject to this regulation, the fees specified in the Third 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 99K(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 deemed to have paid the annual fee for the continuing retention of his name in the register as an appointed representative, in respect of the regulated activity conducted by the person while he was a provisional representative.

(3) For the purposes of sections 85(4) and 99K(6) 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.

(4A) For the purposes of section 99A(4) of the Act, where the annual fee referred to in paragraph 5(7) of the Second Schedule or item 9 of the Third Schedule is not paid, a late payment fee of \$100 for every day or part thereof that the payment is late, subject to a maximum of \$3,000, shall also be payable.

*[S 385/2012 wef 01/04/2013]*

(5) The Authority may, as it thinks fit, waive the whole or any part of the fee payable under section 84, 85, 90, 99A or 99K of the Act.

(6) Where the holder of a capital markets services licence is licensed to carry on business in more than one regulated activity, the amount of the licence fee payable to the Authority shall be the sum of the fees specified in the Third Schedule for the regulated activities that the holder is licensed to carry out.

*[S 709/2010 wef 26/11/2010]*

### **Manner of application for capital markets services licence**

**6A.—**(1) An application for the grant of a capital markets services licence for any regulated activity other than fund management 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 709/2010 wef 26/11/2010]*

*[S 385/2012 wef 07/08/2012]*

(2) Except where the applicant is a person mentioned in paragraph (3), an application for the grant of a capital markets services licence for the regulated activity of fund management shall be in Form 1A 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 385/2012 wef 07/08/2012]*

*[S 587/2017 wef 20/10/2017]*

(3) An application for the grant of a capital markets services licence for the regulated activity of fund management by a person who does not carry on business in any regulated activity other than the management of portfolios of securities on behalf of venture capital funds must be in Form 1V and must 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 587/2017 wef 20/10/2017]*

**Deposit to be lodged in respect of capital markets services licence to deal in securities**

7.—(1) Subject to paragraph (2), an application for a capital markets services licence to carry on business in dealing in securities must be accompanied by a deposit of \$100,000 to be lodged in the manner determined by the Authority.

*[S 523/2016 wef 01/11/2016]*

(2) The deposit mentioned in paragraph (1) is not required in the case of an applicant —

- (a) that is a member of a securities exchange; or
- (b) that is a person which —
  - (i) does not carry any customer's positions in securities, margins or accounts in that person's own books;
  - (ii) deals in securities only with accredited investors or institutional investors;
  - (iii) does not accept money or assets from any customer as settlement of, or as a margin for, or to guarantee or secure, any contract for the purchase or sale of securities by that customer; and
  - (iv) does not enter into any transaction with any customer to deal in securities as principal.

*[S 523/2016 wef 01/11/2016]*

(2A) The deposit mentioned in paragraph (1) must be maintained for the entire duration of the licence.

*[S 523/2016 wef 01/11/2016]*

(2B) The deposit mentioned in paragraph (1) must be lodged with the Authority —

- (a) by making payment through any electronic funds transfer system as the Authority may designate from time to time;
- (b) in the form of a banker's guarantee issued by a bank licensed under the Banking Act (Cap. 19); or
- (c) in cash.

*[S 523/2016 wef 01/11/2016]*

(3) The deposit lodged by the holder of a capital markets services licence under paragraph (1) shall be applied by the Authority for the purpose of compensating any person (other than an accredited investor) who suffers pecuniary loss as a result of any defalcation committed by the holder or by any of its agents in relation to any money or other property which, in the course of or in connection with its business in dealing in securities, was —

- (a) entrusted to or received by the holder or agent for or on behalf of any other person; or
- (b) entrusted to or received by —
  - (i) the holder, as trustee (whether or not with any other person) of that money or property; or
  - (ii) the agent as trustee of, or on behalf of the trustee of, that money or property.

(4) Subject to these Regulations, every person who suffers pecuniary loss as provided in paragraph (3) shall be entitled to claim compensation in relation to the relevant deposit lodged with the Authority.

(5) The amount which any claimant shall be entitled to claim as compensation shall be the amount of actual pecuniary loss suffered by him (including the reasonable cost of and disbursements incidental to the making and proof of his claim) less the amount or value of all moneys or other benefits received or receivable by him from any source, other than the Authority, in reduction of the loss.

(6) The Authority may cause to be published in a daily newspaper published and circulating generally in Singapore a notice in Form 17

specifying a date, not being earlier than 3 months after the date of publication, on or before which claims for compensation in relation to the deposit lodged by the person specified in the notice may be made.

(7) A claim for compensation in respect of a defalcation shall be made in writing to the Authority —

(a) where a notice under paragraph (6) has been published, on or before the date specified in the notice; or

(b) where no such notice has been published, within 6 months after the claimant becomes aware of the defalcation,

and any claim which is not so made shall be barred unless the Authority otherwise determines.

(8) The Authority may, subject to these Regulations and after such enquiry as it thinks fit —

(a) allow and settle any proper claim made in accordance with paragraph (7) and determine the amount payable as compensation; or

(b) disallow any improper claim.

(9) For the purposes of paragraph (3), where the Authority is satisfied that the defalcation on which a claim is founded was actually committed, it may allow the claim and act accordingly notwithstanding that the person who committed the defalcation has not been convicted or prosecuted therefor or that the evidence on which the Authority acts would not be sufficient to establish the guilt of that person upon a criminal trial in respect of the defalcation.

(10) Nothing in these Regulations shall require the Authority to settle a claim in full or in part where the relevant deposit lodged with the Authority is insufficient to meet the aggregate amount of the claims for compensation.

### **Return of deposit**

**8.—**(1) Where —

(a) the holder of a capital markets services licence to deal in securities, which has lodged with the Authority a deposit

under regulation 7, ceases to carry on business in dealing in securities;

- (b) a capital markets services licence to deal in securities has lapsed or has been revoked by the Authority; or
- (c) the holder of a capital markets services licence to deal in securities is admitted as a member of a securities exchange after it has been granted the licence,

the Authority may release to the holder the deposit or, where any part thereof has previously been paid to a judgment creditor or liquidator or where any claim in respect thereof has previously been allowed, the balance (if any) of the deposit so lodged —

- (i) in the case of sub-paragraph (a), on the expiration of 3 months after service on the Authority of a notice in writing duly signed by or on behalf of the holder stating that it has ceased to carry on such business in Singapore and on the Authority being satisfied that the holder has not, from the date of cessation of business indicated on the notice, carried on such business in Singapore; and
- (ii) in every case, on the Authority being satisfied that all the liabilities in Singapore of the holder in respect of its dealing in securities are fully liquidated or provided for.

(2) The Authority may cause every notice served on it under paragraph (1)(i) and its decision with regard to the proposed release of the deposit or the balance thereof to be published at the cost of the holder in such manner as the Authority thinks fit.

### **Lapsing of capital markets services licence**

**9.** For the purposes of section 95(1)(b) of the Act, where the Authority has not revoked a capital markets services licence under section 95(2) of the Act, or suspended the capital markets services licence under section 95(3) of the Act, the licence shall lapse —

- (a) if the holder has not commenced business in at least one of the regulated activities to which the licence relates within 6 months (or such longer period as the Authority may allow)

from the date of the grant of the licence, immediately upon the expiry of that period; or

(b) if the holder —

- (i) has ceased to carry on business in all of the regulated activities to which the licence relates;
- (ii) has not resumed business in any of those regulated activities for a continuous period of 2 months from the date of cessation of business; and
- (iii) has not notified the Authority of such cessation of business at any time during the period of 2 months, immediately upon the expiry of that period of 2 months.

*[S 709/2010 wef 26/11/2010]*

### **Cessation of status of appointed representative**

**9A.** For the purpose of section 99D(4)(e) of the Act, unless the Authority has revoked the status of an individual as an appointed representative under section 99M(1) of the Act, or suspended that status under section 99M(2)(a) of the Act, the individual shall cease to be an appointed representative in respect of all types of regulated activity 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 Securities and Futures (Representatives) (Transitional and Savings Provisions) Regulations 2010 (G.N. No. S 712/2010), the date when he was granted a representative's licence under section 87 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 regulated activities that he was appointed to carry out as a representative; or

(b) the appointed representative —

(i) has ceased to act as a representative in respect of all of the regulated activities he was appointed to carry out as a representative; and

(ii) has not resumed acting as such a representative in respect of any of those regulated activities 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 709/2010 wef 26/11/2010]*

**10.** *[Deleted by S 709/2010 wef 26/11/2010]*

### **Cessation of business by holder**

**11.—(1)** Where the holder of a capital markets services licence ceases to carry on business in every type of the regulated activities to which its licence relates, 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 7.

(2) Where the holder of a capital markets services licence ceases to carry on business in any type of regulated activity to which its licence relates but has not ceased to carry on business in the remaining types of regulated activities, 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 7.

(3) Where the holder of a capital markets services licence has, 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, commenced business in one or more but not all the types of regulated activity to which the licence relates, it shall immediately return its licence to the Authority and lodge with the Authority a notice in Form 7.

(4) Where the holder of a capital markets services licence has not commenced business in every type of regulated activity to which the licence relates 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, it shall immediately return its licence to the Authority and lodge with the Authority a notice in Form 7.

(5) Upon receipt of the notice and licence referred to in paragraph (1), (2), (3) or (4), the Authority shall cancel the licence and, in the case referred to in paragraphs (2) and (3), issue to the holder a new licence in respect of the remaining type or types of regulated activities.

*[S 709/2010 wef 26/11/2010]*

### **Variation of capital markets services licence**

**11A.—**(1) An application for the variation of a capital markets services licence under section 90 of the Act shall be in Form 5 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 capital markets services licence or imposes further conditions or restrictions on such a licence, the Authority may require the holder to return its licence to the Authority for cancellation and issuance of a new licence, and the holder shall comply with such a requirement.

(3) Where the Authority has approved an application of the holder of a capital markets services licence under section 90(1) of the Act to add to its licence one or more types of regulated activity, the holder shall immediately return its licence to the Authority for cancellation and issuance of a new licence.

*[S 709/2010 wef 26/11/2010]*

### **Lodgment of particulars of cessation**

**11B.—**(1) For the purposes of sections 99D(8), 99E(4) read with 99D(8) of the Act and section 99F(4) read with 99D(8) of the Act, particulars that an individual has ceased to be a representative of a

principal, or has ceased to carry on business in any type of regulated activity which he is appointed to carry on business in, shall be furnished to the Authority in Form 8.

(2) Where an appointed representative has ceased to be a representative under regulation 9A(a), his principal shall immediately lodge with the Authority a notice of such cessation in Form 8.

*[S 709/2010 wef 26/11/2010]*

### **Application for appointment of chief executive officer and director**

**12.—**(1) For the purposes of section 96(1) of the Act, the holder of a capital markets services licence 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 709/2010 wef 26/11/2010]*

(2) For the purposes of section 96(2) of the Act, the criteria to which the Authority may have regard in determining whether to grant its approval in respect of an application made under paragraph (1) are —

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

*[S 709/2010 wef 26/11/2010]*

(aa) whether the appointee or director has had a prohibition order under section 101A of the Act made by the Authority against him that still remains in force;

*[S 709/2010 wef 26/11/2010]*

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

*[S 709/2010 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 709/2010 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 709/2010 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 709/2010 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 holder;

*[S 709/2010 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 holder;

*[S 709/2010 wef 26/11/2010]*

- (h) the financial standing of the appointee or director;

*[S 709/2010 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 holder; and

*[S 709/2010 wef 26/11/2010]*

- (j) whether there is reason to believe that the appointee or director will not conduct himself professionally 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 holder.

*[S 709/2010 wef 26/11/2010]*

### **Duties of holder of capital markets services licence**

**13.** The holder of a capital markets services licence shall —

- (a) comply with all laws and rules governing the holder's operations; and
- (b) in a manner that is commensurate with the nature, scale and complexity of the business of the holder —
- (i) implement, and ensure compliance with, effective written policies on all operational areas of the holder, including the holder's financial policies, accounting and internal controls, and internal auditing;
  - (ii) put in place compliance function and arrangements including specifying the roles and responsibilities of officers and employees of the holder 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 the holder's risk of incurring legal or regulatory sanctions that may be imposed by the Authority or any other public authority, financial loss, and reputational damage;
  - (iii) identify, address and monitor the risks associated with the trading or business activities of the holder;
  - (iv) ensure that the business activities of the holder are subject to adequate internal audit;
  - (v) ensure that the internal audit of the holder or the holder's holding company (if any) includes inquiring into the holder's compliance with all relevant laws and all relevant business rules of any securities exchange, futures exchange and clearing house;

- (vi) set out in writing the limits of the discretionary powers of each officer, committee, sub-committee or other group of persons of the holder empowered to commit the holder to any financial undertaking or to expose the holder to any business risk (including any financial, operational or reputational risk);
- (vii) keep a written record of the steps taken by the holder to monitor compliance with its policies, its accounting and operating procedures, and the limits on discretionary powers;
- (viii) ensure the accuracy, correctness and completeness of any report, book or statement submitted by the holder to its head office (if any) or to the Authority; and
- (ix) ensure effective controls and segregation of duties to mitigate potential conflicts of interest that may arise from the operations of the holder.

*[S 170/2013 wef 28/03/2013]*

### **Criteria for determining if chief executive officer or director of holder of capital markets services licence has breached duties**

**13A.** For the purposes of section 97(2) of the Act and without prejudice to any other matter that the Authority may consider relevant, the Authority shall, in determining whether a chief executive officer or a director of the holder of a capital markets services licence has failed to discharge the duties or functions of his office, have regard to whether the chief executive officer or director has ensured compliance by the holder with each of the duties specified in regulation 13.

*[S 170/2013 wef 28/03/2013]*

### **Duties of holder of capital markets services licence for regulated activity of fund management**

**13B.—(1)** Without prejudice to regulation 13, the holder of a capital markets services licence for fund management shall —

- (a) put in place a risk management framework (that identifies, addresses and monitors the risks associated with assets under its management) which is appropriate to the nature, scale and complexity of the assets;
- (b) subject assets under its management to independent valuation for the purpose of determining their respective net asset values, and ensure that a party independent of the holder conveys such values to the customers to which the assets relate or, if the assets are in the form of units in a closed-end fund or collective investment scheme, to the unitholders of the fund or scheme;
- (c) segregate assets under its management, other than assets which are already subject to regulation 17 or 27 (as the case may be), from the proprietary assets of the holder or the holder's related corporations or connected persons, and maintain them in —
  - (i) a trust account with any financial institution referred to in regulation 17(1)(a), (b) or (c), or with a custodian outside Singapore which is licensed, registered or authorised to conduct banking business in the country or territory where the account is maintained; or
  - (ii) a custody account with any financial institution or other person referred to in regulation 27(1)(a) to (f), or with a custodian outside Singapore which is licensed, registered or authorised to act as a custodian in the country or territory where the account is maintained;
- (d) accord priority to transactions for the purchase or sale of securities or futures contracts, or to investments, made on behalf of its customers, over those made for any of the following persons:
  - (i) the holder;
  - (ii) the holder's associated persons;
  - (iii) the holder's officers;

- (iv) the holder's employees;
  - (v) the holder's representatives;
  - (vi) any person whom the holder knows to be an associated person of any person referred to in sub-paragraph (iii), (iv) or (v); and
- (e) mitigate conflicts of interest arising from the management of assets and, where appropriate, disclose such conflicts of interest to the customer concerned.
- (2) A transaction made for any person referred to in sub-paragraphs (i) to (vi) of paragraph (1)(d) excludes any transaction for the purchase or sale of securities or futures contracts which are, or are to be, beneficially owned by a person who is not referred to in sub-paragraphs (i) to (vi) of paragraph (1)(d).
- (3) In paragraph (1)(d), a person is an associated person of another person if the first-mentioned person is —
- (a) a related corporation of the second-mentioned person;
  - (b) a connected person of the second-mentioned person;
  - (c) a person who is accustomed or is under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the second-mentioned person in relation to a transaction or investment referred to in paragraph (1)(d); or
  - (d) a corporation which is, or the directors of which are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the second-mentioned person in relation to a transaction or investment referred to in paragraph (1)(d).
- (4) Paragraph (1)(c) does not apply to the following assets under the management of the holder:
- (a) securities which are not listed for quotation or quoted on a securities market;

- (b) interests in a closed-end fund, where —
- (i) the closed-end fund is to be used for private equity or venture capital investments; and
  - (ii) interests in the closed-end fund are offered only to accredited investors or institutional investors or both, and the holder has —
    - (A) disclosed the fact that the assets are not maintained in a trust account or custody account in accordance with paragraph (1)(c) to the customer and obtained the customer's acknowledgement of the custody arrangement; and
    - (B) arranged for an auditor to audit the assets on an annual basis and furnish a report on the audit to the customer.

(5) For the purposes of this regulation, assets are under the management of the holder of a licence if they are the subject of fund management carried out directly by the holder, or indirectly by the holder through another entity.

*[S 170/2013 wef 28/03/2013]*

**Criteria for determining if chief executive officer or director of holder of capital markets services licence for fund management has breached duties**

**13C.** For the purposes of section 97(2) of the Act and without prejudice to regulation 13A and any other matter that the Authority may consider relevant, the Authority shall, in determining whether a chief executive officer or a director of the holder of a capital markets services licence for fund management has failed to discharge the duties or functions of his office, have regard to whether the chief executive officer or director has ensured compliance by the holder with each of the duties specified in regulation 13B.

*[S 170/2013 wef 28/03/2013]*

## **Exemptions**

**14.**—(1) Each person specified in the Second Schedule is exempted from section 82(1) or section 99B(1) (as the case may be) of the Act, in the circumstances specified in that Schedule.

(2) Where a person acts as a representative of any person specified in paragraphs 1 to 7 of the Third Schedule to the Act (referred to in this paragraph as the principal), he shall be exempted from section 99B(1) of the Act, in so far as —

- (a) the type and scope of the regulated activity carried out by the person acting as a representative are within or the same as the type and scope of the regulated activity carried out by the principal in his capacity as specified in the relevant paragraph of the Third Schedule to the Act; and
- (b) the manner in which the person acting as a representative carries out the regulated activity is the same as the manner in which the principal carries out the regulated activity in his capacity as specified in the relevant paragraph of the Third Schedule to the Act.

(3) Where a person acts as a representative of a foreign company specified in paragraph 9 of the Third Schedule to the Act, the person acting as a representative shall be exempted from section 99B(1) of the Act, in so far as he complies with every condition or restriction imposed on the foreign company pursuant to an approval granted for the arrangement between the foreign company and its related corporation under that paragraph, where such condition or restriction is applicable to him.

(4) A person who is exempted from holding a capital markets services licence under section 99(1)(a), (b), (c) or (d) of the Act shall lodge with the Authority —

- (a) where the person commences business in any regulated activity or any additional regulated activity, 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;

- (b) where the person ceases business in any or all of the regulated activities for which notice has been given in —
- (i) Form 26 under sub-paragraph (a);
  - (ii) Form 26 under regulation 14(4)(a) in force immediately before 26th November 2010; or
  - (iii) Form 27 under regulation 14(4)(b) in force immediately before 26th November 2010,
- a notice of cessation in Form 29, not later than 14 days after the cessation or such later date as the Authority may allow;
- (c) where there is any change in any particulars required to be notified in —
- (i) Form 26 under sub-paragraph (a);
  - (ii) Form 26 under regulation 14(4)(a) in force immediately before 26th November 2010; or
  - (iii) Form 27 under regulation 14(4)(b) 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; and
- (d) a declaration by the person in Form 28 within 14 days or such longer period as the Authority may allow after the end of the financial year of the person.

*[S 709/2010 wef 26/11/2010]*

(5) If a holder of a capital markets services licence for fund management does not carry on business in any regulated activity other than the management of portfolios of securities on behalf of venture capital funds, the holder of the licence is exempt from the specified provisions (called in this regulation a venture capital fund manager).

*[S 587/2017 wef 20/10/2017]*

(6) A venture capital fund manager must lodge with the Authority an annual declaration in Form 25A within one month after the end of each of its financial years.

*[S 587/2017 wef 20/10/2017]*

(7) A person who acts as a representative of a venture capital fund manager is exempt from section 99B(1) of the Act, insofar as —

- (a) the type and scope of the regulated activity carried out by the person acting as a representative are within or the same as the type and scope of the regulated activity carried out by the venture capital fund manager; and
- (b) the manner in which that person acting as a representative carries out the regulated activity is the same as the manner in which the venture capital fund manager carries out the regulated activity.

*[S 587/2017 wef 20/10/2017]*

(8) In this regulation —

“committed capital”, in relation to a venture capital fund, means the total amount that the participants of the venture capital fund have agreed to contribute to the venture capital fund;

“participant”, in relation to a venture capital fund, means a person who participates in a venture capital fund by way of owning one or more units in a venture capital fund;

“special purpose vehicle of the arrangement” means a corporation of which the arrangement is a member or a partnership of which the arrangement is a partner, where the only activity of the corporation or partnership is the holding or owning of securities acquired by the arrangement;

“specified provisions” means —

- (a) Division 2 of Part IV of the Act;
- (b) Divisions 2 and 3 of Part V of the Act;
- (c) sections 96 and 97A to 97I of the Act;
- (d) Parts III, IV and V of these Regulations; and

(e) regulations 3A, 3B, 3C, 4, 4A, 5, 9A, 11B, 12, 13, 13A, 13B and 13C of these Regulations;

“unit”, in relation to a venture capital fund, means a right or interest (however described) in a venture capital fund (whether or not constituted as an entity), and includes an option to acquire any such right or interest in the venture capital fund;

“venture capital fund” means an arrangement in respect of a portfolio of securities that are not listed for quotation or quoted on a securities exchange or an overseas securities exchange —

(a) under which —

(i) the participants do not have day-to-day control over the management of the portfolio of securities, whether or not they have the right to be consulted or to give directions in respect of such management;

(ii) the portfolio of securities is managed as a whole by a venture capital fund manager;

(iii) the contributions of the participants and the profits or income from which payments are to be made to them are pooled; and

(iv) at least 80% of the committed capital of the arrangement is applied towards the acquisition of securities that are allotted to the arrangement, or to a special purpose vehicle of the arrangement, by an entity that was incorporated or formed 10 years or less before the date on which the arrangement first acquired (whether directly or indirectly) any securities allotted by that entity;

(b) the sole purpose or effect of which is to enable the participants (whether by acquiring any right, interest, title or benefit in the portfolio of securities or any part of the portfolio of securities or otherwise) —

- (i) to participate in or receive profits, income, or other payments or returns arising from the acquisition, holding, management or disposal of, the exercise of, the redemption of, or the expiry of, any right, interest, title or benefit in the portfolio of securities or any part of the portfolio of securities; or
  - (ii) to receive sums paid out of such profits, income, or other payments or returns;
- (c) the units of which —
- (i) are exclusively non-redeemable at the election of the participants; and
  - (ii) are not the subject of any offer or invitation for subscription or purchase at any time other than the offer period of the arrangement; and
- (d) in which every participant is an accredited investor or an institutional investor.

*[S 587/2017 wef 20/10/2017]*

### **Holders of capital markets services licences and representatives, etc., to be fit and proper persons**

**14A.**—(1) The holder of a capital markets services licence shall ensure that —

- (a) it is a fit and proper person to carry on business in the regulated activity for which it is licensed;
- (b) its representatives are fit and proper persons to carry out that regulated activity as its representatives;
- (c) its chief executive officer, directors or equivalent persons are fit and proper persons for office; and
- (d) its substantial shareholders or equivalent persons are fit and proper persons in their capacity as such.

- (2) For the purposes of section 99(4) of the Act —
- (a) a person who is exempted from holding a capital markets services licence under section 99(1)(a), (b), (c), (d), (f) or (g) of the Act shall ensure that —
    - (i) he is a fit and proper person to carry on business in the regulated activity for which he is exempted; and
    - (ii) his representatives are fit and proper persons to carry out that regulated activity as his representatives; and
  - (b) a Registered Fund Management Company or a person who is exempted from holding a capital markets services licence under paragraph 7(1)(b) of the Second Schedule shall ensure that —
    - (i) he is a fit and proper person to carry on business in the regulated activity for which he is exempted;
    - (ii) his representatives are fit and proper persons to carry out that regulated activity 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,

*[S 385/2012 wef 07/08/2012]*

are fit and proper persons to control such  
power or hold such shares or share of  
ownership.

*[S 709/2010 wef 26/11/2010]*

### PART III

#### CUSTOMER'S MONEYS AND ASSETS

##### *Division 1 — Definitions*

#### **Definitions of this Part**

**15.—**(1) In Part V of the Act and this Part, “customer”, in relation to the holder of a capital markets services licence, does not include —

- (a) the holder in carrying out any regulated activity for its own account;
- (b) an officer, an employee or a representative of the holder; or
- (c) a related corporation of the holder with respect to an account belonging to and maintained wholly for the benefit of that related corporation.

(2) For the purposes of this Part, a reference to money received on account of a customer of the holder of a capital markets services licence includes —

- (a) money received from, or on account of, the customer in respect of a sale or purchase of futures contract or a transaction connected with leveraged foreign exchange trading;
- (b) money received from, or on account of, the customer for the purchase of or holding of securities, or the maintenance of a securities trading account by the customer;
- (c) money received for the account of the customer in respect of a sale of securities;

- (d) money received from, or on account of, the customer, where the holder provides securities financing to such customer;
- (e) money received from, or on account of, the customer for the purpose of managing the customer's funds; and
- (f) money received from, or on account of, the customer in the course of the business of the holder,

but does not include —

- (i) money which is to be used to reduce the amount owed by the customer to the holder;
- (ii) money which is to be paid to the customer or in accordance with the customer's written direction;
- (iii) money which is to be used to defray the holder's brokerage and other proper charges; and
- (iv) money which is to be paid to any other person entitled to the money.

(3) In this Part, "customer's assets", in relation to the holder of a capital markets services licence, means securities and assets (other than money), including Government securities and certificates of deposits, that are beneficially owned by a customer of the holder.

*Division 2 — Customer's Moneys*

**Money received on account of customer**

**16.—**(1) The holder of a capital markets services licence —

- (a) shall treat and deal with all moneys received on account of its customer as belonging to that customer;
- (b) shall deposit all moneys received on account of its customer in a trust account or in any other account directed by the customer; and
- (c) shall not commingle moneys received on account of its customer with other funds, or use the moneys as margin or

guarantee for, or to secure any transaction of, or to extend the credit of, any person other than the customer.

*[S 709/2010 wef 26/11/2010]*

(2) The holder shall deposit the money received on account of its customer in the trust account no later than the business day immediately following the day on which the holder receives such money or is notified of the receipt of such money, whichever is the later, unless the money has in the meantime been paid to the customer or deposited in an account directed by the customer or unless it is deposited in accordance with regulation 19 or invested in accordance with regulation 20.

(3) In paragraph (2), “business day” means the business day of the holder or, if the custodian with whom the trust account is maintained is closed for business on that day and the holder is unable to deposit the money in the account, the next business day of the custodian.

(4) Moneys received by the holder on account of its customers may be commingled and deposited in the same trust account.

### **Maintenance of trust account with specified financial institutions**

17.—(1) The holder of a capital markets services licence shall maintain a trust account in which it deposits moneys received on account of its customer with —

- (a) a bank licensed under the Banking Act (Cap. 19);
- (b) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186); or
- (c) a finance company licensed under the Finance Companies Act (Cap. 108).

(2) Without prejudice to paragraph (1) and subject to the customer’s prior written consent, the holder may, for the purpose of depositing moneys received on account of its customer which are denominated in a foreign currency in a trust account, maintain the trust account with a custodian outside Singapore which is licensed, registered or authorised to conduct banking business in the country or territory where the account is maintained.

### **Notification and acknowledgment from specified financial institutions**

**18.** Where the holder of a capital markets services licence opens a trust account with a financial institution specified in regulation 17(1), the holder shall, before depositing moneys received on account of its customer in the account, give written notice to the financial institution and obtain an acknowledgment from the financial institution that —

- (a) all moneys deposited in the trust account are held on trust by the holder for its customer and the financial institution cannot exercise any right of set-off against the moneys for any debt owed by the holder to the financial institution; and
- (b) the account is designated as a trust account, or a customer's or customers' account, which shall be distinguished and maintained separately from any other account in which the holder deposits its own moneys.

### **Customer's money held with a clearing house, etc.**

**19.** Notwithstanding regulations 16 and 17 —

- (a) the holder of a capital markets services licence to trade in futures contracts may deposit moneys received on account of its customer with a clearing house, a member of a futures exchange or a member of an overseas futures exchange —
  - (i) for the purpose of facilitating the continued holding of a futures position or facilitating a transaction in a futures contract to be entered into for the customer;
  - (ii) for the settlement of a transaction in a futures contract for the customer; or
  - (iii) for any other purpose specified under the business rules and practices of the clearing house, futures exchange or overseas futures exchange, as the case may be; and
- (b) the holder of a capital markets services licence to deal in securities may deposit moneys received on account of its

customer with a clearing house or a member of a securities exchange for a purpose specified under the business rules and practices of the clearing house or securities exchange, as the case may be.

### **Investment of moneys received on account of customers**

**20.**—(1) Notwithstanding regulations 16 and 17, the holder of a capital markets services licence may hold moneys received on account of its customer on trust for the customer, including moneys which the holder may from time to time advance to the customer's trust account in accordance with regulation 23, in any of the following forms of investment:

- (a) any Government securities;
- (b) any debt instrument of the government of the country of the securities market or futures market, or securities exchange or futures exchange, on which the holder normally transacts its business; or
- (c) any other securities or instrument as the Authority may from time to time, by a guideline issued by the Authority, determine.

(2) The holder of a capital markets services licence maintaining any moneys received on account of its customer in any of the forms of investment specified in paragraph (1) shall keep a record of all transactions relating to such moneys, including —

- (a) the date on which the transaction was made;
- (b) where applicable, the name of the person through whom the transaction was made;
- (c) the amount of money invested in the transaction;
- (d) a description of the transaction;
- (e) the place, if any, where the moneys and assets are kept;
- (f) where applicable, the date on which the subject-matter of the transaction was realised or otherwise disposed of and the amount of money received from the realisation or disposal, if any; and

- (g) where applicable, the name of the person, if any, to whom or through whom the subject-matter of the transaction was disposed of.

### **Withdrawal of money from trust account**

**21.** The holder of a capital markets services licence shall not withdraw any money from a customer's trust account except for the purpose of —

- (a) making a payment to any person entitled thereto;
- (b) making a payment to meet an obligation of a customer whose money is deposited in that account, being an obligation that arises from any dealing in securities, trading in futures contracts or leveraged foreign exchange trading, as the case may be, by the holder for the customer;
- (c) defraying its brokerage and other proper charges;
- (d) making a payment to any other person or account in accordance with the written direction of the customer;
- (e) reimbursing the holder any moneys that it has advanced to the account and any interest and returns that it is entitled to by virtue of regulation 23, so long as such withdrawal does not result in the account becoming under-margined or under-funded;
- (f) making a deposit in accordance with regulation 19 or an investment in accordance with regulation 20; or
- (g) making a payment or withdrawal that is authorised by law.

### **Interest arising from trust account, etc.**

**22.—(1)** Subject to any agreement between the holder of a capital markets services licence and its customer, all interest earned from the maintenance of the moneys received on account of the customer in a trust account, and all returns from the investment of moneys received on account of the customer in accordance with regulation 20, shall accrue to the customer.

*[S 709/2010 wef 26/11/2010]*

(2) The holder of a capital markets services licence shall take all reasonable steps to ensure that the interest and returns accrued to the customer under paragraph (1) are paid to or held for the benefit of the customer, as the case may be.

*[S 709/2010 wef 26/11/2010]*

### **Placement of licensee's own money in trust account**

**23.**—(1) Notwithstanding regulation 16(1), the holder of a capital markets services licence may from time to time advance sufficient money to a customer's trust account from its own funds —

- (a) to prevent the customer's trust account from being under-margined or under-funded; or
- (b) to ensure the continued maintenance of that account in a case where it is maintained with —
  - (i) a financial institution specified in regulation 17(1);  
or
  - (ii) a custodian specified in regulation 17(2).

*[S 373/2005 wef 01/07/2005]*

(2) The holder may retain any interest earned and return arising on the moneys which it has so advanced to the account.

(3) Subject to regulation 21(e), any money belonging to the holder that is deposited into a customer's trust account may be used for the purpose of payment to the customer.

### **No effect on lawful claims or liens**

**24.** Nothing in this Division shall be construed as avoiding or affecting any lawful claim or lien which any person has in respect of any money held in a trust account in accordance with this Division or any money belonging to a customer before the money is paid into a trust account.

*Division 3 — Customer's Assets*

**Application of this Division**

**25.**—(1) This Division shall apply to customer's assets received by the holder of a capital markets services licence to be held on account of the customer or as collateral for any amount owed by the customer to the holder.

(2) In this Division, “custodian” means a person referred to in regulation 27(1), (2) or (3), as the case may be.

**Duties of holder on receipt of customer's assets**

**26.**—(1) The holder of a capital markets services licence shall —

- (a) deposit a customer's assets in a custody account held on trust for the customer;
- (b) ensure that the customer's assets are not commingled with any other assets; and

*[S 709/2010 wef 26/11/2010]*

- (c) make arrangements for a custodian to maintain the custody account.

(2) The holder shall deposit the customer's assets in the custody account no later than the business day immediately following the day on which the holder receives such assets or is notified of the receipt of such assets, whichever is the later, unless the assets have in the meantime been returned to the customer or deposited in an account directed by the customer or unless it is deposited in accordance with regulation 30.

(3) In paragraph (2), “business day” means the business day of the holder or, if the custodian with whom the custody account is maintained is closed for business on that day and the holder is unable to deposit the assets in the account, the next business day of the custodian.

(4) A customer's assets may be commingled with the assets of another customer and deposited in the same custody account.

### **Maintenance of custody account with specified custodians**

**27.**—(1) Subject to regulation 30, the holder of a capital markets services licence shall maintain a custody account in which it deposits a customer's assets with —

- (a) a bank licensed under the Banking Act (Cap. 19);
- (b) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186);
- (c) a finance company licensed under the Finance Companies Act (Cap. 108);
- (d) a depository agent within the meaning of section 130A of the Companies Act (Cap. 50) for the custody of securities listed for quotation or quoted on the Singapore Exchange Securities Trading Limited or deposited with the Central Depository (Pte) Ltd;
- (e) an approved trustee for a collective investment scheme within the meaning of section 289 of the Act; or
- (f) any person licensed under the Act to provide custodial services for securities.

(2) Without prejudice to paragraph (1), the holder may maintain the custody account itself where it is licensed under the Act to provide custodial services for securities.

(3) Without prejudice to paragraph (1) and subject to the customer's prior written consent, the holder may, for the purpose of the safe custody of the customer's assets denominated in a foreign currency, maintain the custody account with a custodian outside Singapore which is licensed, registered or authorised to act as a custodian in the country or territory where the account is maintained.

### **Notification and acknowledgment from specified custodians**

**28.** Where the holder of a capital markets services licence opens a custody account with a custodian specified in regulation 27(1), the holder shall, before depositing a customer's assets in the account, give written notice to the custodian, and obtain an acknowledgment from the custodian that —

- (a) all assets deposited in the custody account are held on trust by the holder for its customer; and
- (b) the account is designated as a trust account, or a customer's or customers' account, which shall be distinguished and maintained separately from any other account in which the holder deposits its own assets.

### **Suitability of custodian**

**29.** The holder of a capital markets services licence which maintains its customer's assets in a custody account under regulation 27 shall —

- (a) before opening the custody account, conduct due diligence as to the custodian's suitability for the holder's customer or class of customers; and
- (b) maintain records of the grounds on which it has satisfied itself of the suitability of the custodian.

### **Customer's assets held with clearing house, etc.**

**30.** Notwithstanding regulations 26 and 27 —

- (a) the holder of a capital markets services licence to trade in futures contracts may deposit its customer's assets with a clearing house, a member of a futures exchange or a member of an overseas futures exchange —
  - (i) for the purpose of facilitating the continued holding of a futures position or facilitating a transaction in a futures contract to be entered into for the customer;
  - (ii) for the settlement of a transaction in a futures contract for the customer; or
  - (iii) for any other purpose specified under the business rules and practices of the clearing house, futures exchange or overseas futures exchange, as the case may be; and
- (b) the holder of a capital markets services licence to deal in securities may deposit its customer's assets with a clearing

house or a member of a securities exchange for a purpose specified under the business rules and practices of the clearing house or securities exchange, as the case may be.

### **Customer agreement**

**31.**—(1) Where the holder of a capital markets services licence is licensed to provide custodial services for securities, the holder shall, before providing custodial services for its customer's assets, notify the customer of the terms and conditions that would apply to the safe custody of the customer's assets.

(2) The terms and conditions that apply to the provision of custodial services for securities by such a holder to its customer shall include —

- (a) the arrangements for the giving and receiving of instructions by or on behalf of the customer in respect of the services to be provided including, where applicable, the arrangements for the giving of authority by the customer to another person and the extent of that authority and any limitation thereto;
- (b) any lien over or security interest in the assets by the holder or a third party;
- (c) the circumstances under which the holder may realise the assets held as collateral to meet the customer's liabilities to the holder;
- (d) where the customer's assets are to be held with a custodian other than the holder, the liability of the holder in the event of default by the custodian;
- (e) where the holder intends to commingle the customer's assets with those of other customers and maintain such assets with a custodian other than itself, a statement that the customer's interest in the assets may not be identifiable by separate certificates, or other physical documents or equivalent electronic records, and a condition that the holder shall maintain records of the customer's interest in the assets that have been commingled;

- (f) the person in whose name the assets are registered;
- (g) the arrangements in relation to claiming and receiving dividends, interest payments and other entitlements accruing to the customer, and the exercise of any right and power arising from ownership of the assets;
- (h) the arrangements for the provision of information relating to the custody of the asset to the customer; and
- (i) all applicable fees and costs for the custody of the assets.

### **Custody agreement**

**32.**—(1) Subject to paragraph (3), before placing its customer's assets in a custody account with a custodian, the holder of a capital markets services licence shall agree with the custodian, in writing, to the following:

- (a) that the account shall be designated as that of the customer or customers;
- (b) that the custodian shall hold and record the assets in accordance with the holder's instructions; and the records shall identify the assets as belonging to the holder's customer and the assets shall be kept separate from any asset belonging to the holder or to the custodian;
- (c) that the custodian shall not claim any lien, right of retention or sale over any asset standing to the credit of the custody account, except —
  - (i) where the holder has obtained the customer's written consent and notified the custodian in writing of the written consent; or
  - (ii) in respect of any charges as agreed upon in the terms and conditions relating to the administration or custody of the asset;
- (d) that the custodian shall provide sufficient information to the holder in order that the holder may comply with its record-keeping obligations under the Act or these Regulations or under any other law;

- (e) the person in whose name the assets are registered;
- (f) that the custodian shall not permit any withdrawal of the assets from the custody account, except for delivery of the assets to the holder or on the holder's written instructions;
- (g) the arrangements for dealing with any entitlement arising from the assets in the custody account, such as coupon or interest payment;
- (h) the extent of the custodian's liability in the event of any loss of the assets maintained in the custody account caused by fraud or negligence on the part of the custodian or any of the custodian's agents; and
- (i) the applicable fees and costs for the custody of the assets.

*[S 709/2010 wef 26/11/2010]*

(2) The holder of a capital markets services licence referred to in paragraph (1) shall, before depositing its customer's assets in a custody account, disclose to the customer the terms and conditions agreed with the custodian.

(3) Paragraph (1) shall not apply to the holder of a capital markets services licence who is licensed to provide custodial services in relation to its provision of such services for its customer's assets.

*[S 709/2010 wef 26/11/2010]*

### **Lending of customer's securities**

**33.**—(1) Notwithstanding regulations 26 and 27, the holder of a capital markets services licence may, subject to the other provisions of this regulation, lend or arrange for a custodian to lend its customer's assets which are securities.

(2) The holder of a capital markets services licence shall not lend or arrange for a custodian to lend the securities of a customer, unless it has —

- (a) explained the risks involved to the customer; and
- (b) obtained the customer's written consent to do so.

(3) Paragraph (2)(a) shall not apply to a holder of a capital markets services licence which lends or arranges for a custodian to lend the securities of a customer who is an accredited investor.

(4) The holder of a capital markets services licence which lends its customer's securities shall, before the commencement of such lending, enter into an agreement with that customer setting out the terms and conditions for such lending with the customer whose securities are to be lent.

(5) The holder of a capital markets services licence which arranges for a custodian to lend securities of the holder's customer shall, before the commencement of such lending —

- (a) enter into an agreement with the custodian setting out the terms and conditions for the lending; and
- (b) disclose these terms and conditions to the customer.

### **Mortgage of customer's assets**

**34.**—(1) Notwithstanding regulations 26 and 27, the holder of a capital markets services licence may, in the circumstances specified in paragraphs (2) and (4) (but not in any other circumstances), mortgage, charge, pledge or hypothecate its customer's assets.

(2) Subject to paragraph (3) and any agreement between the holder of a capital markets services licence and its customer, where the holder is owed money by the customer, the holder may mortgage, charge, pledge or hypothecate the customer's assets but only for a sum not exceeding the amount owed by the customer to it.

(3) The holder of a capital markets services licence does not contravene paragraph (2) by reason only of an excess arising on any day through the reduction of the amount owed by the customer to the holder on that day, but only if the holder pays or transfers to the mortgagee, chargee or pledgee concerned money or assets of an amount sufficient to reduce such excess as promptly as practicable after the excess occurs and, in any event, no later than the next business day.

(4) The holder of a capital markets services licence may mortgage, charge, pledge or hypothecate the customers' assets together if and only if —

- (a) the sum of the claims to which such customers' assets are subject as a result of such mortgage, charge, pledge or hypothecation does not exceed the aggregate amounts owed by the customers to the holder; and
- (b) the claim to which each customer's assets are subject as a result of such mortgage, charge, pledge or hypothecation does not exceed the amount owed by the customer to the holder.

### **Withdrawal of customer's assets**

**35.** The holder of a capital markets services licence shall not withdraw any of its customer's assets from a custody account except for the purpose of —

- (a) transferring the asset to any person entitled thereto;
- (b) meeting the customer's obligation arising from any dealing in securities, trading in futures contracts or leveraged foreign exchange trading, as the case may be, by the holder for the customer;
- (c) transferring the asset to any person or account in accordance with the customer's written directions;
- (d) securities lending in accordance with regulation 33;
- (e) mortgaging, charging, pledging or hypothecating the assets in accordance with regulation 34;
- (f) making a deposit in accordance with regulation 30; or
- (g) making a transfer that is authorised by law.

### **No effect on lawful claims or liens**

**36.** Nothing in this Division shall be construed as avoiding or affecting any lawful claim or lien which any person has in respect of any asset held in a custody account in accordance with this Division

or any asset belonging to a customer before the asset is paid into a custody account.

*Division 4 — Miscellaneous*

**Daily computation for trust accounts and custody accounts**

**37.**—(1) For the purposes of Divisions 2 and 3, the holder of a capital markets services licence to trade in futures contract or carry out leveraged foreign exchange trading shall, at such intervals as it determines to be appropriate but no less frequently than at the close of every business day, compute —

- (a) the total amount of moneys and assets deposited in its customers' trust accounts and custody accounts respectively;
- (b) the total amount of its customers' moneys and its customers' assets required under Part V of the Act and these Regulations to be deposited in trust accounts and custody accounts respectively; and
- (c) the respective amounts of the holder's residual interest in the trust accounts and custody accounts,

as at the end of such interval.

(2) The holder shall complete the computation referred to in paragraph (1) before noon of the next business day and such computation with all supporting data shall be kept by the holder for the period specified in section 102(3) of the Act.

**Customer's moneys and assets held by clearing house**

**38.**—(1) The holder of a capital markets services licence which is a member of a clearing house shall, in respect of such market contracts as may be specified by the clearing house, inform the clearing house in the manner determined by the clearing house —

- (a) whether a market contract that is being cleared by the clearing house is a customer's contract; and

(b) whether any money or asset being deposited with or paid to the clearing house is deposited or paid in respect of or in relation to the customer's contract.

(2) In this regulation —

“customer's contract” means —

(a) a contract to which a customer of the holder is a party; or

(b) a contract to which any other holder of a capital markets services licence to deal in securities or trade in futures contracts is a party and which is cleared through the first-mentioned holder;

“market contract” has the same meaning as in section 48(1) of the Act.

*[S 709/2010 wef 26/11/2010]*

## PART IV

### CONDUCT OF BUSINESS

#### **Books of holder of capital markets services licence**

**39.—**(1) For the purposes of Division 1 of Part V of the Act, the holder of a capital markets services licence shall keep books in the English language which contain the following, where applicable:

(a) particulars of every customer, including particulars that satisfy such notices and guidelines as may be issued by the Authority under the Act;

(b) the name of any person —

(i) guaranteeing the settlement of any amount owed in a customer's account in respect of which a regulated activity is carried out by the holder;

(ii) who can give instructions to the holder on the carrying out of a regulated activity with respect to a customer's account; or

- (iii) who has trading authority or exercises any control with respect to a customer's account;
- (c) [*Deleted by S 543/2003*]
- (d) particulars of every transaction carried out on behalf of customers, including —
  - (i) a description and the quantity of the assets that are the subject of the transaction;
  - (ii) the price and fee arising from the transaction;
  - (iii) the name of the customer on whose behalf the transaction is entered into;
  - (iv) the name of the counterparty to the transaction; and
  - (v) the transaction date and settlement or delivery date;
- (e) a separate record maintained for each customer stating, where applicable —
  - (i) the amount and description of each asset paid or deposited in the trust account and custody account as required by regulations 16 and 26 respectively and the date of such payment or deposit;
  - (ii) the date and quantity of each transfer of assets from or to the trust account and custody account arising from any asset borrowing or lending activity or otherwise;
  - (iii) the date, amount and purpose of each withdrawal from the trust account or custody account; and
  - (iv) the date and amount of, and the reason for, each disposal of collateral from the trust account or custody account;
- (f) particulars of each asset that is not the property of the holder and for which the holder or any nominee controlled by the holder is accountable, indicating by whom and for whom the asset or the document of title to the asset is held and the extent to which it is held for safe custody by a third

party or mortgaged, charged, pledged or hypothecated in accordance with regulation 34;

(g) particulars of every underwriting and placement transaction entered into by the holder including, where applicable —

(i) the amount which the holder committed to underwrite;

(ii) the amount underwritten due to under-subscription;

(iii) the amount allotted to each subscriber;

(iv) the amount placed with each placee; and

(v) the amount subscribed by each subscriber or placee (including any related company);

(h) particulars of every proprietary transaction of the holder including, where applicable —

(i) the description and quantity of the assets concerned;

(ii) the price and fee arising from the transaction;

(iii) the transaction date and settlement or delivery date;

(iv) the name of the counterparty to the transaction; and

(v) the realised or unrealised gain or loss;

(i) particulars of all income and expenses of the holder; and

(j) particulars of all assets and liabilities (including contingent liabilities) of the holder and, in the case of assets, showing by whom these assets or the documents of title to these assets are held and, where they are held by some other person, whether or not they are held as security against loans or advances.

(2) The holder shall also keep books in the English language which contain the following documents, where applicable:

(a) for each customer, other than one who is an accredited investor, every power of attorney or other document authorising the holder or its representative to operate the account of the customer on a discretionary basis;

- (b) every written agreement, or copy thereof, entered into by the holder with its customer;
- (c) every acknowledgment of a customer received under regulation 47E(1)(b) which shall be in Form 13;  
*[S 709/2010 wef 26/11/2010]*
- (d) every acknowledgment of a customer received under regulation 47E(2) which shall be in Form 14;  
*[S 709/2010 wef 26/11/2010]*
- (e) every statement acknowledging receipt of assets from a customer indicating the person in whose name the assets are registered;
- (f) every order, whether filled, unfilled, amended or cancelled, which has been prepared or received in the course of the business of the holder;
- (g) every report, letter, circular, memorandum, publication, advertisement and other literature or advice distributed by the holder to any existing or prospective customer, indicating the date of publication;
- (h) every report, statement, submission, letter, journal, ledger, invoice, and other record, data or memoranda, which has been prepared or received in the course of business of the holder;
- (i) written confirmation of every securities transaction, futures transaction or transaction in connection with leveraged foreign exchange trading and every purchase and sale contract note and statement of account in respect of such transaction, being a transaction to which any of the following is a party:
  - (i) the holder;
  - (ii) except where the holder is one referred to in sub-paragraph (iii), an executive director of the holder, if the transaction is a personal transaction of such executive director; and

- (iii) where the holder is a branch or subsidiary of a foreign company with its head office located outside Singapore, an executive director of the holder who is directly involved in its operations and business, if the transaction is a personal transaction of such executive director;
  - (j) written confirmation of every transaction referred to in paragraph (1)(d) prepared by the holder as principal or as agent of a customer, and every purchase and sale contract note and statement of account in respect of such transaction prepared by the holder as principal or as agent of the customer, as the case may be, or received from any other party, whether licensed in Singapore or elsewhere; and
  - (k) in respect of every underwriting and placement transaction entered into by the holder, documentation stating the basis of allotment to each subscriber or placee, as the case may be.
- (3) Subject to paragraph (4), the holder of a capital markets services licence to deal in securities, trade in futures contracts or carry out leveraged foreign exchange trading shall —
- (a) as soon as practicable upon the receipt of a customer's order for —
    - (i) securities quoted on a securities exchange, an overseas securities exchange or a recognised trading system provider;
    - (ii) futures contracts; or
    - (iii) foreign exchange in connection with leveraged foreign exchange trading,or the receipt of any amendment or cancellation of such an order, prepare and keep a written record of —
    - (A) the particulars of the customer's instruction in the order;

- (B) the date and time of receipt of the order, amendment or cancellation;
- [S 170/2013 wef 28/03/2014]*
- (BA) where the instruction in respect of the order, amendment or cancellation is placed through an Internet-based trading platform, the Internet protocol address from which the instruction is received; and
- [S 170/2013 wef 28/03/2014]*
- (C) where the order, amendment or cancellation is transmitted to a member of a securities exchange, a futures exchange, an overseas securities exchange or an overseas futures exchange, or to the trading floor of such exchange, the date and time the order, amendment or cancellation is transmitted;
- (b) as soon as practicable upon the receipt of a customer's order for other securities, or the receipt of any amendment or cancellation of such an order, prepare and keep a written record of —
- (i) the particulars of the customer's instruction in the order;
- [S 170/2013 wef 28/03/2014]*
- (ii) the date of receipt of the order or of any amendment or cancellation of the order; and
- (iii) where the instruction in respect of the order, amendment or cancellation is placed through an Internet based trading platform, the Internet protocol address from which the instruction is received; and
- [S 170/2013 wef 28/03/2014]*
- (c) as soon as practicable upon the execution of a customer's order for securities, futures contracts or foreign exchange in connection with leveraged foreign exchange trading, prepare and keep a written record of the particulars of the transaction and —

- (i) in the case of an order for —
  - (A) securities quoted on a securities exchange, an overseas securities exchange or a recognised trading system provider;
  - (B) futures contracts; or
  - (C) foreign exchange in connection with leveraged foreign exchange trading,the date and time of execution of the order or amended order, if any; or
- (ii) in the case of an order for other securities, the date of execution of the order or amended order, if any.

(4) Paragraph (3) shall not apply to the holder of a capital markets services licence to trade in futures contracts in respect of a transaction by an arbitrageur or a market-maker for the purchase or sale of futures contracts specified by a futures exchange if —

- (a) the arbitrageur or market-maker, as the case may be, has given prior written consent for the holder not to prepare and keep the records as required in paragraph (3);
- (b) the transaction is executed on the trading floor; and
- (c) the transaction is entered into in accordance with the business rules or practices of the futures exchange.

(5) In this regulation —

“arbitrageur” means a person who —

- (a) is appointed, approved or registered by a futures exchange as an arbitrageur in respect of futures contracts specified by the futures exchange; and
- (b) purchases or sells any futures contract specified by the futures exchange in a futures market together with an off-setting sale or purchase of the same or equivalent contract in a different market at as nearly the same time as practicable for the purpose of taking advantage of a difference in prices in the 2 markets;

“market-maker” means a person who —

- (a) is appointed, approved or registered by a futures exchange as a market-maker in respect of futures contracts specified by the futures exchange;
- (b) enters into transactions for the purchase or sale of futures contracts specified by the futures exchange for his own account;
- (c) regularly publishes *bona fide* competitive bid and offer quotations in respect of futures contracts specified by the futures exchange; and
- (d) is ready, willing and able to effect transactions at his quoted prices with other persons in respect of futures contracts specified by the futures exchange.

#### **Provision of statement of account to customers**

**40.**—(1) The holder of a capital markets services licence shall on a monthly basis furnish to each customer a statement of account containing the particulars referred to in paragraph (2).

(1A) Paragraph (1) shall not apply to the holder where —

- (a) there is no change to any of those particulars since the date on which the last statement of account was made up to; or
- (b) the customer is an accredited investor, or a related corporation of the holder, and —
  - (i) the holder has made available to the customer, on a real-time basis, those particulars in the form of electronic records stored on an electronic facility and the customer has consented to those particulars being made available to him in this manner; or
  - (ii) the customer has requested, in writing, not to receive the statement of account on a monthly basis from the holder.

(2) The statement of account referred to in paragraph (1) shall contain, where applicable, the following particulars:

- (a) securities transactions of the customer and the price at which the transactions are entered into;
- (b) futures positions and leveraged foreign exchange positions of the customer and the prices at which the positions are acquired, and the net unrealised profits or losses in all futures positions and leveraged foreign exchange positions of the customer marked to the market;
- (c) the status of every asset in the holder's custody held for the customer, including any asset deposited with a third party that is used for securities lending under regulation 33 or held as collateral under regulation 34;
- (d) the movement of every asset of the customer, the date of and reasons for such movement, and the amount of the asset involved;
- (e) the movement and balance of money received on account of the customer within the meaning of regulation 15(2); and
- (f) a detailed account of all financial charges and credits to the customer's account during the monthly statement period, unless the detailed account of financial charges and credits has been included in any contract note or tax invoice issued by the holder to the customer.

(3) Subject to paragraph (4), the holder of a capital markets services licence shall furnish to each customer, at the end of every quarter of a calendar year, a statement of account containing, where applicable, the assets, futures positions, leveraged foreign exchange positions and cash balances (if any) of the customer as at the end of that quarter.

(4) Paragraph (3) shall not apply to the holder of a capital markets services licence where —

- (a) such particulars have been furnished to the customer by the holder in accordance with paragraph (1) for the last month of that quarter; or
- (b) the holder is exempted from complying with paragraph (1) by virtue of the application of paragraph (1A)(b).

(5) Paragraphs (1) and (3) shall not apply to the holder of a capital markets services licence which is a member of a clearing house if the statements of account referred to in those paragraphs are furnished to the customer by the clearing house or a Depository within the meaning of section 130A of the Companies Act (Cap. 50).

### **Documentation required by Authority, futures exchange or clearing house**

**41.** Where the Authority, or a futures exchange or clearing house of which the holder of a capital markets services licence is a member, requests the holder to furnish it with the documentation of any cash transaction underlying the exchange of futures contract for any cash commodity, the holder shall request for such documentation from its customer and, upon receipt thereof, provide such documentation to the Authority, futures exchange or clearing house, as the case may be.

### **Contract notes**

**42.—(1)** Subject to paragraph (1A), the holder of a capital markets services licence to deal in securities, trade in futures contracts or carry out leveraged foreign exchange trading shall, in respect of a sale or purchase of securities or futures contracts or a transaction connected with leveraged foreign exchange trading, after entering into the transaction —

- (a) give to the other party to the transaction a contract note which contains such information as may be prescribed; or
- (b) procure that such a contract note be given in its name.

*[S 709/2010 wef 26/11/2010]*

(1A) Paragraph (1) shall not apply to any transaction of sale or purchase of securities or futures contracts effected by the holder of a capital markets services licence through a member of —

- (a) a securities exchange or overseas securities exchange; or
- (b) a futures exchange or overseas futures exchange,

if the holder gives, or arranges with that member to give, to the other party to the transaction a contract note or a copy thereof issued by that member in respect of the transaction in accordance with the rules of

that exchange or with any written law governing the issuance of contract notes by members of that exchange.

*[S 709/2010 wef 26/11/2010]*

(1B) The holder shall include, in every contract note to be given under paragraph (1), where applicable —

- (a) the name or style under which the holder carries on business in dealing in securities, trading in futures contracts or leveraged foreign exchange trading, and the address of the principal place at which the holder carries on the business;
- (b) where the holder is —
  - (i) dealing in securities or carrying out leveraged foreign exchange trading as a principal; or
  - (ii) trading in futures contracts against its customer,a statement that it is so acting;
- (c) the name and address of the party to whom the contract note is given;
- (d) the date on which the transaction is entered into;
- (e) in respect of a sale or purchase of securities, the number or amount, and description of the securities that are the subject of the transaction;
- (f) in respect of a sale or purchase of futures contract or a transaction connected with leveraged foreign exchange trading, the quantity and type of the futures contract or the amount of foreign exchange that is the subject of the transaction, as the case may be;
- (g) in respect of a sale or purchase of securities or futures contract or a transaction connected with leveraged foreign exchange trading, the price per unit of the transaction, the amount of the consideration for the transaction, the rate and amount of commission (if any) charged for the transaction by the holder and the amount of all stamp duties or other duties or taxes payable in connection with the transaction; and

- (h) in respect of a sale or purchase of securities, if an amount is to be added to or deducted from the settlement amount in respect of the right to a benefit purchased or sold together with the securities, the first-mentioned amount and the nature of the benefit.

*[S 709/2010 wef 26/11/2010]*

(2) The holder of a capital markets services licence shall, no later than the business day immediately following a sale or purchase of securities or futures contract or a transaction connected with leveraged foreign exchange trading, give to the other party to the transaction a contract note for the transaction.

(2A) Notwithstanding paragraph (2), where any detail in a transaction that is required to be included in every contract note under paragraph (1B) becomes available or is only determined after the business day specified in paragraph (2), the holder of the capital markets services licence shall give to the other party to the transaction the contract note for the transaction no later than the business day immediately following the business day on which the information required to be included in every contract note in paragraph (1B) becomes available or has been determined.

*[S 373/2005 wef 01/07/2005]*

*[S 709/2010 wef 26/11/2010]*

(3) Any person who, without reasonable excuse, contravenes any of the provisions of this regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine of \$5,000 for every day or part thereof during which the offence continues after conviction.

*[S 709/2010 wef 26/11/2010]*

### **Limits for unsecured credit and credit facilities**

**43.—**(1) The holder of a capital markets services licence shall not grant, whether directly or indirectly, any unsecured advance, unsecured loan or unsecured credit facility to —

- (a) any of its directors (other than a director who is also its employee); or

(b) in relation to a director who is not an employee of the holder, any connected person of such director who is himself also not an employee of the holder.

(2) Subject to paragraph (1) and section 162 of the Companies Act (Cap. 50), the holder of a capital markets services licence shall not grant, whether directly or indirectly, any unsecured advance, unsecured loan or unsecured credit facility to any relevant person of the holder, which in the aggregate and outstanding at any one time exceeds one year's emoluments of such relevant person.

(3) For the purpose of paragraph (2), any unsecured advance, unsecured loan or unsecured credit facility granted by the holder of a capital markets services licence to any person to purchase, subscribe for or trade in any capital markets product for —

- (a) the account of a relevant person of the holder;
- (b) an account in which a relevant person of the holder has an interest;
- (c) an account of any person who acts jointly with, under the control of, or in accordance with, the direction of a relevant person of the holder; or
- (d) an account of any connected person of a relevant person of the holder, where the connected person is not himself a relevant person of the holder,

shall be deemed to be an unsecured advance, unsecured loan or unsecured credit facility granted by the holder to that relevant person.

(4) In this regulation —

“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 exchange on the preceding business day;
- (b) if there was no trading in the securities on the exchange on the preceding business day, then, subject to paragraph (c), the lower of the last transacted price

and the last bid price of the securities on the exchange; or

- (c) if there was no trading in the securities on the exchange in the preceding 30 days, the value of the securities as estimated by the exchange or the holder and approved by the Authority;

“relevant person”, in relation to the holder of a capital markets services licence, means —

- (a) an officer of the holder (other than a director who is not its employee); or
- (b) an employee of the holder;

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

- (a) any advance, loan or credit facility made by the holder of a capital markets services licence to its relevant person without security, whether it has been drawn down or not;
- (b) in respect of any advance, loan or credit facility made by the holder to its relevant person with security, any part thereof which at any time exceeds the market value of the assets constituting that security or, where the Authority is satisfied that there is no established market value for those assets, on the basis of a valuation approved by the Authority; and
- (c) any guarantee or performance bond entered into by the holder, or the provision of any security by the holder, in connection with a loan, advance or credit facility made by another party to its relevant person.

*[S 373/2005 wef 01/07/2005]*

### **Priority of customers’ orders**

**44.—**(1) Except as permitted by paragraph (2) —

- (a) the holder of a capital markets services licence to deal in securities or trade in futures contracts when acting as

principal or on behalf of a person associated with or connected to the holder; or

- (b) a representative of such a holder when acting for his own account or on behalf of a person associated with or connected to the representative,

shall not enter into a transaction for the purchase or sale of securities or futures contracts that are permitted to be traded on the securities market of a securities exchange, the futures market of a futures exchange or the securities market or the futures market of a recognised market operator, as the case may be, if a customer of that holder or representative, who is not associated with or connected to the holder or representative, has instructed the holder or representative to purchase or sell, respectively, securities or futures contracts of the same class and the holder or representative has not complied with the instruction.

(2) Paragraph (1) shall not apply to the holder of a capital markets services licence or a representative of such a holder —

- (a) if his customer required the purchase or sale of securities or futures contracts on behalf of the customer to be effected only on specified conditions and he has been unable to purchase or sell the securities or futures contracts by reason of those conditions; or
- (b) if the transaction is entered into in accordance to the business rules or practices of the securities exchange or futures exchange, as the case may be, through which the transaction is entered into.

(3) Any person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 12 months or to both.

*[S 709/2010 wef 26/11/2010]*

### **Securities borrowing and lending**

**45.—**(1) Subject to paragraph (2), where a holder of a capital markets services licence —

- (a) borrows securities from an owner of those securities (referred to in this regulation as the lender), the holder shall provide Collateral to the lender for the borrowing of the securities; and
- (b) lends securities, including securities belonging to its customer, to any person (referred to in this regulation as the borrower), the holder shall obtain Collateral from the borrower for the lending of the securities.

(2) Paragraph (1)(a) shall not apply to a holder of a capital markets services licence when the holder borrows securities from an accredited investor.

(3) For the purposes of paragraph (1)(a) and (b), the holder of a capital markets services licence shall ensure that the Collateral provided to the lender or obtained from the borrower, as the case may be, shall, throughout the period that the securities are borrowed or lent, have a value not less than 100% of the market value of the securities borrowed or lent.

(4) Where the holder of a capital markets services licence borrows or lends securities in accordance with paragraph (1), it shall ensure that the terms and conditions of the borrowing or lending, as the case may be, are recorded in a prior written agreement, which complies with paragraph (5) and is entered into between the holder and the lender or borrower or their duly authorised agent, as the case may be.

(5) For the purposes of paragraph (4), the written agreement shall —

- (a) state the capacities in which the parties are entering into the agreement (whether as principal or agent);
- (b) provide for the transfer of the title to and interest in the securities lent from the lender to the holder, or the holder to the borrower, as the case may be;
- (c) provide for the transfer of the title to and interest in the whole or part of the Collateral provided or obtained by the holder which is valued to be at least 100% of the market value of the securities (referred to in this regulation as minimum Collateral) which is borrowed by the holder

from the lender, or lent by the holder to the borrower, as the case may be;

- (d) provide for the following rights throughout the period that the securities are borrowed or lent:
  - (i) in the case where the holder borrows securities from a lender, the rights of the lender in relation to the minimum Collateral and the rights of the holder in relation to the securities borrowed; and
  - (ii) in the case where the holder lends securities to a borrower, the rights of the holder in relation to the minimum Collateral and the rights of the borrower in relation to the securities borrowed,including the treatment of dividend payments, voting and other rights and arrangements for dealing with any corporate action;
- (e) provide for the procedure for calculating the lending or borrowing fees, as the case may be;
- (f) include the requirement to mark to market on every business day the securities lent or borrowed, as the case may be, and all minimum Collateral comprising securities and the procedures for calculating the margins;
- (g) provide for the procedures for the request for the return of the securities lent, and the arrangements for dealing with the situation where such securities cannot be delivered by —
  - (i) the holder, where the holder borrows securities from a lender; and
  - (ii) the borrower, where the holder lends securities to a borrower;
- (h) provide for the termination of the agreement by any party to the agreement, including any early termination fee which that party may be subject to;
- (i) state whether there is any right of set-off of claims;

- (j) set out the events of default and the rights and obligations of the parties to the agreement in such events of default; and
- (k) provide for the law governing the agreement and the jurisdiction to which it is subject.

(6) Where the holder of a capital markets services licence borrows securities from an accredited investor, the holder shall ensure that the terms and conditions of the borrowing are recorded in a prior written agreement, which complies with paragraph (7) and is entered into between the holder and the accredited investor or their duly authorised agent, as the case may be, regardless of whether the holder provides any assets to the accredited investor as collateral for the borrowing.

(7) For the purposes of paragraph (6) —

- (a) the terms and conditions in the written agreement that apply to the borrowing of securities shall include the details set out in paragraph (5), with the exception of paragraph (5)(f), and for this purpose —
  - (i) any reference to the minimum Collateral in paragraph (5) shall be construed as a reference to any asset which may be provided to the accredited investor as collateral for the borrowing; and
  - (ii) any reference to the lender shall be construed as a reference to the accredited investor; and
- (b) where assets are provided to the accredited investor as collateral for the borrowing, the written agreement shall specify —
  - (i) whether the securities borrowed and the assets provided comprising securities, if any, are marked to market; and
  - (ii) if so, the procedures for calculating the margins.

(8) Without prejudice to paragraph (3), the holder of a capital markets services licence may —

- (a) where it borrows securities from a lender, provide assets other than Collateral (referred to in this regulation as additional assets) to the lender if the Collateral already provided to the lender is valued at not less than 100% of the market value of the securities borrowed as at the time the additional assets are provided to the lender; and
  - (b) where it lends securities to a borrower, obtain additional assets from the borrower if the Collateral already obtained from the borrower is valued at not less than 100% of the market value of the securities lent as at the time the additional assets are obtained from the borrower.
- (9) In this regulation —
- “Collateral” means —
- (a) cash;
  - (b) Government securities;
  - (c) marginable securities;
  - (d) guarantees issued by banks licensed under the Banking Act (Cap. 19);
  - (e) letters of credit;
  - (f) any asset that —
    - (i) is liquid and readily convertible into cash;
    - (ii) is in the possession or control of —
      - (A) the holder where the holder borrows securities from a lender; and
      - (B) the borrower where the holder lends securities to a borrower;
    - (iii) is subject to a legally binding agreement between the lender and the holder or the holder and the borrower, as the case may be, which —
      - (A) is evidenced in writing;

- (B) is irrevocable and enforceable against —
  - (AA) the holder where the holder borrows securities from a lender; and
  - (BB) the borrower where the holder lends securities to a borrower; and
- (C) confers an unconditional right to apply the asset, to sell the asset or to otherwise convert the asset into cash on —
  - (AA) the lender where the holder borrows securities from a lender; and
  - (BB) the holder where the holder lends securities to a borrower;
- (iv) is not a security issued by —
  - (A) in the case where the holder borrows securities from a lender —
    - (AA) the holder, that gives rise to exposure to the holder; or
    - (BB) a related corporation of the holder; and
  - (B) in the case where the holder lends securities to a borrower —
    - (AA) the borrower, that gives rise to exposure to the borrower; or
    - (BB) a related corporation of the borrower; and
- (v) is not a security that is prohibited from serving as collateral by any securities exchange, futures exchange or clearing house, as the case may be; or

- (g) such other instruments as the Authority may from time to time, by a guideline issued by the Authority, determine;

“customer” means —

- (a) a person on whose behalf the holder of a capital markets services licence carries on any regulated activity; or
- (b) any other person with whom the holder enters or will enter into transactions as principal for the sale or purchase of securities;

“marginable securities” means —

- (a) securities listed for quotation or quoted on the Singapore Exchange Securities Trading Limited;
- (b) in the case of an initial public offer, securities to be listed for quotation or quoted on the Singapore Exchange Securities Trading Limited, for which the holder of a capital markets services licence has received full payment from the borrower;
- (c) securities quoted on a recognised group A exchange, and issued by a corporation with shareholders’ funds of not less than \$200 million or its equivalent in a foreign currency; or
- (d) such other securities as the Authority may approve and set out in a guideline issued by the Authority;

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

- (a) the last transacted price of the securities traded on the exchange on the preceding business day;
- (b) if there was no trading in the securities on the exchange on the preceding business day, then, subject to paragraph (c), the lower of the last transacted price and the last bid price of the securities on the exchange; or

(c) if there was no trading in the securities on the exchange in the preceding 30 days, the value of the securities as estimated by the exchange or the holder and approved by the Authority;

“recognised group A exchange” has the same meaning as in regulation 2 of the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations (Rg 13).

*[S 418/2011 wef 31/08/2011]*

### **Product advertisements**

**46.**—(1) A specified person must not, whether through or in collaboration with another person —

- (a) disseminate or publish any product advertisement on or after 10 December 2018; or
- (b) cause to be disseminated or published any product advertisement on or after 10 December 2018,

unless the product advertisement complies with the requirements mentioned in paragraph (2).

(2) For the purposes of paragraph (1), the requirements are —

- (a) the product advertisement is not false or misleading;
- (b) the product advertisement provides a fair and balanced view of the capital markets products to which it relates;
- (c) the product advertisement presents information in a clear manner, regardless of whether such information is in text or otherwise;
- (d) where the product advertisement appears in any medium of communication in visual form, the product advertisement is clearly legible;
- (e) where the product advertisement appears in any electronic mail or website —
  - (i) the product advertisement is in a font size of at least 10-point Times New Roman or any other standard

font type that is visually equivalent to that font size;  
and

(ii) any footnote in the product advertisement is not smaller than —

(A) where the font size of the word or statement to which the footnote relates is or is smaller than 20-point Times New Roman or any other standard font type that is visually equivalent to that font size — 10-point Times New Roman or any other standard font type that is visually equivalent to that font size;

(B) where the font size of the word or statement to which the footnote relates is larger than 20-point Times New Roman or any other standard font type that is visually equivalent to that font size but smaller than 29-point Times New Roman or any other standard font type that is visually equivalent to that font size — half the font size of that word or statement; or

(C) where the font size of the word or statement to which the footnote relates is or is larger than 29-point Times New Roman or any other standard font type that is visually equivalent to that font size — 14-point Times New Roman or any other standard font type that is visually equivalent to that font size;

(f) the product advertisement contains the following statement:

“This advertisement has not been reviewed by the Monetary Authority of Singapore.”; and

(g) the product advertisement has been approved by a person specified in regulation 46AA in the manner set out in that regulation prior to its dissemination or publication.

(3) Without limiting paragraph (2)(a), examples of a product advertisement that is false or misleading are set out in paragraph 1 of the Fourth Schedule.

(4) Without limiting paragraph (2)(b), examples of a product advertisement that does not provide a fair and balanced view of the capital markets products to which it relates are set out in paragraph 2 of the Fourth Schedule.

(5) Without limiting paragraph (2)(c), examples of a product advertisement that does not present information in a clear manner are set out in paragraph 3 of the Fourth Schedule.

(6) Without limiting paragraph (2)(d), examples of a product advertisement that is not clearly legible are set out in paragraph 4 of the Fourth Schedule.

(7) Paragraph (1) does not apply to any dissemination or publication of information that is —

(a) pursuant to any requirement —

- (i) imposed under any written law or rule of law of Singapore, or by any court in Singapore;
- (ii) imposed under the law of any foreign jurisdiction, or by any court in any foreign jurisdiction; or
- (iii) under any listing rule or other requirement of a securities exchange, a futures exchange, an overseas securities exchange or an overseas futures exchange;

(b) made in the course of an offer of securities —

- (i) other than an offer of securities that is exempt from the application of Subdivisions (2) and (3) of Division 1 of Part XIII of the Act (other than section 257 of the Act) under section 277(1) of the Act, by a person who is exempt from having to comply with section 251 of the Act;
- (ii) that is exempt from the application of Subdivisions (2) and (3) of Division 1 of Part XIII of the Act (other than section 257 of the Act) under

- section 272, 272A(1), 272B(1), 273(1) or (5), 274, 275(1) or (1A) or 278(1) of the Act; or
- (iii) that is exempt from the application of Subdivisions (2) and (3) of Division 1 of Part XIII of the Act under section 276(2) or 279 of the Act;
- (c) made in the course of an offer of units or derivatives of units in a business trust —
- (i) other than an offer of units or derivatives of units in a business trust that is exempt from the application of Subdivision (2) of Division 1A of Part XIII of the Act (other than sections 282C(1)(a) and 282Q of the Act) under section 282ZB(1) of the Act, by a person who is exempt from having to comply with section 282L of the Act;
- (ii) that is exempt from the application of Subdivision (2) of Division 1A of Part XIII of the Act (other than section 282Q of the Act) under section 282U, 282V(1), 282W(1), 282X(3) or (6), 282Y or 282Z(1) or (2) of the Act;
- (iii) that is exempt from the application of Subdivision (2) of Division 1A of Part XIII of the Act (other than sections 282C(1)(a) and 282Q of the Act) under section 282X(1) of the Act; or
- (iv) that is exempt from the application of Subdivision (2) of Division 1A of Part XIII of the Act under section 282ZA(2) of the Act; or
- (d) made in the course of an offer of units in a collective investment scheme —
- (i) other than an offer of units in a collective investment scheme that is exempt from the application of Subdivision (3) of Division 2 of Part XIII of the Act under section 305B(1) of the Act, by a person who is exempt from having to comply with section 300 of the Act;

- (ii) that is exempt from the application of Subdivisions (2) and (3) of Division 2 of Part XIII of the Act under section 302A, 302B(1), 302C(1), 303(2), 304 or 305(1) or (2) of the Act; or
- (iii) that is exempt from the application of Subdivision (3) of Division 2 of Part XIII of the Act under section 303(1) of the Act.

*[S 381/2018 wef 09/07/2018]*

### **Approval of product advertisement**

**46AA.**—(1) For the purposes of regulation 46(2)(g), a product advertisement must be approved by —

- (a) the senior management of a holder of a capital markets services licence —
  - (i) which disseminates or publishes, or causes the dissemination or publication, of the product advertisement; or
  - (ii) which appointed representative, provisional representative or temporary representative disseminates or publishes, or causes the dissemination or publication, of the product advertisement;
- (b) an agent of the holder of the capital markets services licence mentioned in sub-paragraph (a); or
- (c) a committee of the holder of the capital markets services licence mentioned in sub-paragraph (a).

(2) For the purposes of paragraph (1)(a), a product advertisement is approved by the senior management of the holder of the capital markets services licence only if every member of the senior management —

- (a) is satisfied that the product advertisement complies with the requirements mentioned in regulation 46(2)(a) to (f);
- (b) records the member's reasons for being so satisfied in writing; and

- (c) gives written approval to the holder of the capital markets services licence for the dissemination or publication of the product advertisement, together with that member's reasons mentioned in sub-paragraph (b).

(3) For the purposes of paragraph (1)(b), a product advertisement is approved by an agent of the holder of the capital markets services licence only if the agent —

- (a) is satisfied that the product advertisement complies with the requirements mentioned in regulation 46(2)(a) to (f);
- (b) records the agent's reasons for being so satisfied in writing; and
- (c) gives written approval to the holder of the capital markets services licence for the dissemination or publication of the product advertisement, together with the agent's reasons mentioned in sub-paragraph (b).

(4) For the purposes of paragraph (1)(c), a product advertisement is approved by a committee of the holder of the capital markets services licence only if every member of the committee —

- (a) is satisfied that the product advertisement complies with the requirements mentioned in regulation 46(2)(a) to (f);
- (b) records the member's reasons for being so satisfied in writing; and
- (c) gives written approval to the holder of the capital markets services licence for the dissemination or publication of the product advertisement, together with that member's reasons mentioned in sub-paragraph (b).

(5) For the purposes of section 97(2) of the Act, the Authority must, when determining whether a chief executive officer or an executive director of a holder of a capital markets licence has failed to discharge the duties of his office, have regard to whether the chief executive officer or executive director (as the case may be) has caused the holder to disseminate or publish any product advertisement that has not been approved by the holder in accordance with regulation 46(2)(g).

(6) In this regulation —

“agent”, in relation to a holder of a capital markets services licence, means a person who —

- (a) may or may not be a member of the senior management of the holder of the capital markets services licence; and
- (b) is unanimously appointed by all the members of the senior management of the holder of the capital markets services licence to —
  - (i) determine whether a product advertisement complies with the requirements mentioned in regulation 46(2)(a) to (f); and
  - (ii) approve the dissemination or publication of the product advertisement by the holder of the capital markets services licence, or an appointed representative, a provisional representative or a temporary representative of the holder of the capital markets services licence, as the case may be;

“committee”, in relation to a holder of a capital markets services licence, means a group of persons that —

- (a) comprises at least 2 persons, each of whom may or may not be a member of the senior management of the holder of the capital markets services licence; and
- (b) is unanimously appointed by all the members of the senior management of the holder of the capital markets services licence to —
  - (i) determine whether a product advertisement complies with the requirements mentioned in regulation 46(2)(a) to (f); and
  - (ii) approve the dissemination or publication of the product advertisement by the holder of the capital markets services licence, or an appointed representative, a provisional

representative or a temporary representative of the holder of the capital markets services licence, as the case may be;

“member of the senior management”, in relation to a holder of a capital markets services licence which is an entity, means a person for the time being holding the office of —

- (a) chief executive officer or an equivalent person of the entity; or
- (b) executive director or an equivalent person of the entity,

and includes a person carrying out the duties of any such office if the office is vacant.

*[S 381/2018 wef 09/07/2018]*

### **Exemption from regulation 46(1)**

**46AB.**—(1) A specified person need not comply with regulation 46(1) if —

- (a) the product advertisement is prepared by another person (called in this regulation the preparer) for the specified person; and
- (b) prior to the specified person disseminating or publishing, or causing the dissemination or publication of, the product advertisement —
  - (i) the condition in paragraph (2) is satisfied; and
  - (ii) the preparer notifies the specified person in writing that the condition in paragraph (2) is satisfied.

(2) For the purpose of paragraph (1)(b), the condition is —

- (a) where the preparer is a specified person, the preparer has complied with regulation 46(1) as if the preparer were the specified person who will disseminate or publish, or cause the dissemination or publication of, the product advertisement;

- (b) where the preparer is a specified financial adviser, the preparer has complied with regulation 22(1) of the Financial Advisers Regulations (Cap. 110, Rg 2) as if the preparer were the specified financial adviser who will disseminate or publish, or cause the dissemination or publication of, the product advertisement; or
- (c) where the preparer is a person other than a specified person or a specified financial adviser —
  - (i) if the product advertisement is an advertisement or a publication mentioned in section 251(8), 273(8A) or 277(7) of the Act, the product advertisement complies with the requirements mentioned in regulation 16(1) of the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005 (G.N. No. S 611/2005);
  - (ii) if the product advertisement is an advertisement or a publication mentioned in section 282L(8), 282X(8A) or 282ZB(8) of the Act, the product advertisement complies with the requirements mentioned in regulation 14(1) of the Securities and Futures (Offers of Investments) (Business Trusts) (No. 2) Regulations 2005 (G.N. No. S 612/2005); or
  - (iii) if the product advertisement is an advertisement or a publication mentioned in section 300(3C), 303(3) or 305B(8) of the Act, the product advertisement complies with the requirements in regulation 21(1) of the Securities and Futures (Offers of Investments) (Collective Investment Schemes) Regulations 2005 (G.N. No. S 602/2005).

(3) In this regulation, “specified financial adviser” has the meaning under paragraph (b) of the definition of “specified financial adviser” in regulation 2(1) of the Financial Advisers Regulations.

*[S 381/2018 wef 09/07/2018]*

### **Maintaining records of approval**

**46AC.**—(1) A holder of a capital markets services licence whose product advertisement is approved for the purposes of regulation 46(2)(g) must keep the following records for the following periods:

- (a) where the product advertisement is approved by the senior management of the holder under regulation 46AA(1)(a), the written reasons and written approvals of all the members of the senior management mentioned in regulation 46AA(2)(b) and (c), respectively, for a period of at least 5 years after the date on which the last member of the senior management gave his written reasons and written approval;
- (b) where the product advertisement is approved by an agent of the holder under regulation 46AA(1)(b) —
  - (i) the written consent of all the members of the senior management of the holder to the appointment of the agent;
  - (ii) the written reasons of the agent mentioned in regulation 46AA(3)(b); and
  - (iii) the written approval of the agent mentioned in regulation 46AA(3)(c),

for a period of at least 5 years after the date on which the agent gave his written reasons and written approval to the holder under regulation 46AA(3)(c);

- (c) where the product advertisement is approved by a committee of the holder under regulation 46AA(1)(c) —
  - (i) the written consent of all the members of the senior management of the holder to the appointment of the committee;
  - (ii) the written reasons of all the members of the committee mentioned in regulation 46AA(4)(b); and
  - (iii) the written approval of all the members of the committee mentioned in regulation 46AA(4)(c),

for a period of at least 5 years after the date on which the last member of the committee gave his written reasons and written approval to the holder under regulation 46AA(4)(c).

(2) Where a holder of a capital markets services licence is exempt from regulation 46(1) under regulation 46AB(1) (read with regulation 46AB(2)(a)), paragraph (1) (read with regulation 46AA) applies to the preparer mentioned in regulation 46AB(2)(a) except that any reference to the holder of the capital markets services licence is read as a reference to the preparer.

*[S 381/2018 wef 09/07/2018]*

### **Advertisement other than product advertisement**

**46AD.**—(1) A specified person must not, whether through or in collaboration with another person —

- (a) disseminate or publish any non-product advertisement on or after 10 December 2018; or
- (b) cause to be disseminated or published any non-product advertisement on or after 10 December 2018,

unless the non-product advertisement complies with the requirements mentioned in paragraph (2).

(2) For the purposes of paragraph (1), the requirements are —

- (a) the non-product advertisement is not false or misleading;
- (b) the non-product advertisement does not contain any statement to the effect that any report, analysis or other service will be furnished free or without charge, unless such report, analysis or service is in fact or will in fact be furnished in its entirety without any condition or obligation; and
- (c) the non-product advertisement does not contain any exaggerated statement which is calculated to exploit an individual's lack of experience and knowledge.

(3) In this regulation, “non-product advertisement” means an advertisement, other than a product advertisement, that is in respect of the provision of any product or service that is regulated by the Act.

*[S 381/2018 wef 09/07/2018]*

### **Certain representations prohibited**

**46A.**—(1) Subject to paragraph (2), the holder of a capital markets services licence shall not represent or imply or knowingly permit to be represented or implied in any manner to any person that the holder’s abilities or qualifications have in any respect been approved by the Authority.

(2) Paragraph (1) does not apply to a statement that a person is holding a capital markets services licence to carry on business in any regulated activity.

(3) Any person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine of \$5,000 for every day or part thereof during which the offence continues after conviction.

*[S 709/2010 wef 26/11/2010]*

### **Trading standards**

**47.**—(1) The holder of a capital markets services licence to deal in securities, trade in futures contract or carry out leveraged foreign exchange trading, or a representative of such a holder, shall not withhold or withdraw from a market any order or any part of a customer’s order for the benefit of itself or himself, or of any other person.

(2) The holder of a capital markets services licence to deal in securities, trade in futures contract or carry out leveraged foreign exchange trading, or the representative of such a holder, shall not divulge information relating to a customer’s order held by it, unless the disclosure —

(a) is necessary for the effective execution of the order;

- (b) is permitted under the rules of the relevant securities exchange, futures exchange, clearing house or recognised trading system provider, as the case may be; or
- (c) is required by the Authority under the Act or these Regulations.

**Disclosure of certain interests in respect of underwriting agreement**

**47A.**—(1) Where —

- (a) securities have been offered for subscription or purchase; and
- (b) the holder of a capital markets services licence has subscribed for or purchased, or is or will or may be required to subscribe for or purchase, any of those securities under an underwriting or sub-underwriting agreement by reason that some or all of the securities have not been subscribed for or purchased,

the holder shall not, during the period of 90 days after the close of the offer referred to in sub-paragraph (a) —

- (i) make an offer to sell those securities otherwise than in the ordinary course of trading on a securities exchange or recognised market operator; or
- (ii) make a recommendation, whether orally or in writing and whether expressly or by implication, with respect to those securities,

unless the offer or recommendation contains or is accompanied by a statement to the effect that the offer or recommendation relates to securities that the holder has acquired, or is or will or may be required to acquire, under an underwriting or sub-underwriting agreement by reason that some or all of the securities have not been subscribed for or purchased.

(2) For the purpose of paragraph (1), any reference to an offer shall be construed as including a reference to a statement, however expressed, that expressly or impliedly invites a person to whom it is made to offer to acquire securities.

(3) Paragraph (1) shall not apply to the holder of a capital markets services licence when —

- (a) making an offer to sell any securities, or making a recommendation with respect to those securities, to —
  - (i) an accredited investor;
  - (ii) an expert investor; or
  - (iii) an institutional investor; or
- (b) making an offer to sell any Government securities, or making a recommendation with respect to those Government securities, to any person.

(4) Where the holder of a capital markets services licence sends to any person a written offer, written recommendation or written statement to which paragraph (1) applies, the holder shall retain a copy of the written offer, recommendation or statement for a period of 5 years after the date the written offer, recommendation or statement is made.

(5) Any person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000.

*[S 709/2010 wef 26/11/2010]*

### **Dealing in securities as principal**

**47B.**—(1) Subject to paragraph (3), the holder of a capital markets services licence to deal in securities shall not, as principal, enter into any transaction of sale or purchase of any securities with any customer who is not the holder of a capital markets services licence to deal in securities unless the holder first informs the customer that the holder is acting in the transaction as principal and not as agent.

(2) The holder of a capital markets services licence to deal in securities which enters into a transaction of sale or purchase of securities, as principal, with a customer who is not the holder of a capital markets services licence to deal in securities shall state in the contract note that the holder is acting in the transaction as principal and not as agent.

(3) Paragraph (1) shall not apply to a transaction of sale or purchase of an odd lot of securities that is entered into by the holder of a capital markets services licence to deal in securities which is a member of a securities exchange or recognised market operator and specialises in transactions relating to odd lots of securities.

(4) Paragraphs (1) and (2) shall not apply to a market-maker when dealing in securities in such capacity.

(5) Where the holder of a capital markets services licence to deal in securities fails to comply with paragraph (1) or (2) in respect of a contract for the sale of securities by the holder, the purchaser of the securities may, if he has not disposed of them, rescind the contract by a notice of rescission given in writing to the holder not later than 30 days after the receipt of the contract note.

(6) Where the holder of a capital markets services licence to deal in securities fails to comply with paragraph (1) or (2) in respect of a contract for the purchase of securities by the holder, the vendor of the securities may, in like manner, rescind the contract.

(7) Nothing in paragraph (5) or (6) shall affect any right that a person has apart from those paragraphs.

(8) Any person who contravenes any of the provisions of this regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 12 months or to both.

(9) For the purposes of this regulation —

(a) a reference to the holder of a capital markets services licence to deal in securities entering into a transaction of sale or purchase of securities as principal includes a reference to the holder entering into such a transaction on behalf of —

- (i) a person associated with or connected to the holder;
- (ii) a corporation in which the holder has a controlling interest; or

- (iii) a corporation in which the holder's interest and the interests of the directors of the holder together constitute a controlling interest;
- (b) a reference to securities is a reference to securities which are permitted to be traded on the securities market of —
  - (i) a securities exchange;
  - (ii) an overseas securities exchange; or
  - (iii) a recognised market operator; and
- (c) a reference to a market-maker is a reference to —
  - (i) the holder of a capital markets services licence which —
    - (A) deals in securities for its own account;
    - (B) regularly publishes bona fide competitive bids and offers quotations in respect of those securities;
    - (C) is ready, willing and able to enter into transactions at such quoted prices with other persons in respect of those securities; and
    - (D) is recognised as a market-maker by a securities exchange, overseas securities exchange or the Authority; or
  - (ii) a designated market-maker referred to in paragraph 2(i) of the Second Schedule.

*[S 709/2010 wef 26/11/2010]*

### **Trading against customer**

**47C.**—(1) The holder of a capital markets services licence to trade in futures contracts shall not knowingly enter into a transaction to buy from or sell to its customer any futures contract for —

- (a) the holder's own account;
- (b) an account of a person associated with or connected to it; or
- (c) an account in which the holder has an interest,

except with the customer's prior consent and in accordance with the business rules and practices of a futures exchange or recognised market operator.

(2) Any person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 12 months or to both.

*[S 709/2010 wef 26/11/2010]*

### **Cross-trading**

**47D.**—(1) The holder of a capital markets services licence to trade in futures contracts shall not knowingly fill or execute a customer's order for the purchase or sale of a futures contract on a futures market by off-setting against the order or orders of any other person, without effecting such a purchase or sale either —

- (a) on the trading floor or electronic futures trading system; or
- (b) in accordance with the business rules and practices of a futures exchange or recognised market operator.

(2) Any person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 12 months or to both.

*[S 709/2010 wef 26/11/2010]*

### **Risk disclosure by certain persons**

**47E.**—(1) The holder of a capital markets services licence to trade in futures contracts or carry out leveraged foreign exchange trading shall not open a futures trading account or leveraged foreign exchange trading account for a customer unless it —

- (a) furnishes the customer with a separate written risk disclosure document in Form 13; and
- (b) receives from the customer an acknowledgment signed and dated by the customer that he has received and understood the nature and contents of the risk disclosure document in Form 13.

(2) The holder of a capital markets services licence for fund management shall not solicit or enter into an agreement with a prospective customer for the purpose of —

- (a) managing the customer's futures trading account or foreign exchange trading account; or
- (b) guiding the customer's futures trading account or foreign exchange trading account,

by means of a systematic programme that recommends specific transactions unless, at or before the time the holder engages in the solicitation or enters into the agreement (whichever is the earlier), the holder —

- (i) delivers or causes to be delivered to the prospective customer a risk disclosure document in Form 14; and
- (ii) receives from the prospective customer an acknowledgment signed and dated by him that he has received and understood the nature and contents of the risk disclosure document in Form 14.

(3) Paragraph (2) shall not apply to collective investment schemes that are approved under Division 2 of Part XIII of the Act.

(4) The holder of a capital markets services licence shall ensure that copies of Forms 13 and 14 delivered to its prospective customer are kept in Singapore.

(5) Any person who contravenes any of the provisions of this regulation shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding 12 months or to both.

*[S 709/2010 wef 26/11/2010]*

## PART V

### DEALING IN GOVERNMENT SECURITIES

#### **Compliance with Rules and Market Practices**

**48.—**(1) The following persons shall comply with the Rules and Market Practices when dealing in Government securities:

- (a) the holder of a capital markets services licence to deal in securities;
- (b) a person exempted from holding a capital markets services licence under section 99 (1)(a), (b), (c) or (d) of the Act;
- (c) a person exempted from holding a capital markets services licence to deal in securities under paragraph (2)(e) of the Second Schedule.

(2) Where any provision of these Regulations conflicts with any provision set out in the Rules and Market Practices, the former shall prevail.

## PART VI

### MISCELLANEOUS

**49.** [*Deleted by S 709/2010 wef 26/11/2010*]

**50.** [*Deleted by S 709/2010 wef 26/11/2010*]

**50A.** [*Deleted by S 709/2010 wef 26/11/2010*]

#### **Position limit**

**51.** The Authority may issue a direction to a person, or its agent, who holds or controls net long or net short positions in any futures contract in excess of the position limit set under section 16A of the Act, to trade under conditions and restrictions specified in that direction in order to ensure compliance with the position limit; and may, in particular, require the person or agent to do one or more of the following:

- (a) cease any further increase in his positions;
- (b) liquidate his position in order to comply with the position limit within the time specified in the direction;
- (c) be subject to higher margin requirements in respect of his positions.

*[S 709/2010 wef 26/11/2010]*

**Non-applicability of section 339 (2) of Act under certain circumstances**

**52.**—(1) Subsection (2) of section 339 of the Act shall not apply to the carrying on of a business in any regulated activity outside Singapore, insofar as that subsection makes that act an offence under Part IV of the Act, if —

- (a) information about the business is not communicated to or directed at any person or persons in Singapore, whether electronically or otherwise;
- (b) a prominent disclaimer comprising a statement referred to in paragraph (2) is contained in all advertisements and published information about the business;
- (c) no advertisement or published information about the business contains any information which is specifically relevant to a person or persons in Singapore; and
- (d) no advertisement or published information about the business is referred to in, or directly accessible from, any source which is intended for a person or persons in Singapore.

(1A) Subsection (2) of section 339 of the Act shall not apply to the carrying on of a business in providing credit rating services outside Singapore, insofar as that subsection makes that act an offence under Part IV of the Act, if the credit ratings prepared in the course of the business are prepared wholly outside Singapore.

*[S 18/2012 wef 17/01/2012]*

(2) For the purposes of paragraph (1)(b), the disclaimer shall comprise a statement to the effect that the advertisement or published information to which it relates —

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

**Exemption for SGXLink Pte Ltd**

**53.** *[Deleted by S 709/2010 wef 26/11/2010]*

### **Banks, merchant banks and finance companies**

**54.**—(1) Sections 104, 104A and 105 of the Act, Part III of these Regulations and regulations 13(b)(ix), 39(3), (4) and (5), 42, 44, 45, 46, 46AA, 46AB, 46AC, 46AD, 47 and 47B to 47E shall, with the necessary modifications, apply to each of the following exempt persons in respect of its business in any regulated activity as those provisions apply to the holder of a capital markets services licence and, where applicable, shall, with the necessary modifications, apply to a representative of any of these exempt persons when acting as such as those provisions apply to the representative of the holder of a capital markets services licence:

- (a) a bank licensed under the Banking Act (Cap. 19);
- (b) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186); and
- (c) a finance company licensed under the Finance Companies Act (Cap. 108).

*[S 709/2010 wef 26/11/2010]*

*[S 170/2013 wef 28/03/2013]*

*[S 381/2018 wef 09/07/2018]*

(2) *[Deleted by S 709/2010 wef 26/11/2010]*

(3) Where any regulation referred to in paragraph (1) or part of it conflicts with any requirement under the Banking Act, the Monetary Authority of Singapore Act or the Finance Companies Act, the latter shall prevail.

### **Registered Fund Management Companies**

**54A.**—(1) Sections 102(1) to (4), 104(1), 104A, 106, 107(1), (2) and (5) and 112(1) of the Act and Divisions 1, 2 and 3 of Part III (other than regulations 19, 30 and 31) of these Regulations and regulations 13, 13B, 39, 40, 43, 46, 46AA, 46AB, 46AC, 46AD and 46A shall, with the necessary modifications, apply to each Registered Fund Management Company in respect of its business in fund management as those provisions apply to the holder of a capital markets services licence and, where applicable, shall, with the necessary modifications, apply to a representative of a Registered

Fund Management Company when acting as such, as those provisions apply to the representative of the holder of a capital markets services licence.

*[S 170/2013 wef 28/03/2013]*

*[S 381/2018 wef 09/07/2018]*

(2) As a condition under section 99(4) of the Act, a Registered Fund Management Company must remove its chief executive officer or any of its directors if the Authority is of the opinion that the chief executive officer or the director has failed to ensure compliance by the Company with any of its duties under regulations 13 and 13B, as applied to the Company under paragraph (1).

*[S 170/2013 wef 28/03/2013]*

*[S 385/2012 wef 07/08/2012]*

## **Offences**

**55.** Any person who contravenes regulation 3D, 4(1), (2) or (3), 5(1), (2), (3), (4), (5), (6) or (7), 7(2A), 11(2), (3) or (4), 11A(2) or (3), 13, 13B, 14(4) or (6), 16(1) or (2), 17(1), 18, 20(2), 21, 22(2), 26(1) or (2), 27(1), 28, 29, 31, 32, 33(2), (4) or (5), 34, 35, 37, 38(1), 39(1), (2) or (3), 40(1), (2) or (3), 41, 43(1) or (2), 45(1), (3), (4), (5), (6) or (7), 46(1), 46AC(1) or (2), 46AD(1), 47 or 48(1), paragraph 5(7A), (7G), (7I) or (7J) or 7(6) of the Second Schedule, or a direction issued by the Authority under regulation 51 or paragraph 5(7H) of the Second Schedule, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

*[S 709/2010 wef 26/11/2010]*

*[S 418/2011 wef 31/08/2011]*

*[S 385/2012 wef 07/08/2012]*

*[S 170/2013 wef 28/03/2013]*

*[S 587/2017 wef 20/10/2017]*

*[S 381/2018 wef 09/07/2018]*

## PART VII

### TRANSITIONAL PROVISIONS

*[S 373/2005 wef 01/07/2005]*

**Persons exempted from holding capital markets services licence under paragraph 5(1)(d) of Second Schedule in force before 7th August 2012**

**56.** Any person who, immediately before 7th August 2012, was exempted from the requirement to hold a capital markets services licence to carry on business in fund management under paragraph 5(1)(d) of the Second Schedule in force immediately before that date, shall continue to be exempted from the requirement to hold a capital markets services licence to carry on business in fund management —

- (a) until the expiry of a period of 6 months after that date;
- (b) if, before the expiry of the period of 6 months in paragraph (a), it applies for a capital markets services licence for fund management, until the date on which the licence is granted to it, the date it is notified by the Authority that its application has been refused, or the date the application is withdrawn; or
- (c) if, before the expiry of the period of 6 months in paragraph (a), it lodges with the Authority a notice of commencement of business as a Registered Fund Management Company pursuant to paragraph 5(7) of the Second Schedule, until the date the Authority publishes its registration as a Registered Fund Management Company on the Authority's Internet website at <http://www.mas.gov.sg>, or the date it is notified by the Authority that the Authority has refused to register it as a Registered Fund Management Company.

*[S 385/2012 wef 07/08/2012]*

**57. to 60.** *[Deleted by S 385/2012 wef 07/08/2012]*

**Persons carrying on business in providing credit rating services immediately before 17th January 2012**

**61.** Any person who, immediately before 17th January 2012, was carrying on business in providing credit rating services shall not be required to hold a capital markets services licence to carry on business in providing credit rating services —

- (a) for a period of 6 months from 17th January 2012; or
  - (b) if, before the expiry of the period of 6 months referred to in paragraph (a), he applies for a capital markets services licence to carry on business in providing credit rating services or to carry on business in regulated activities which include providing credit rating services, until the date on which the licence is granted to him, or on which his application is refused or withdrawn,
- whichever is the later.

*[S 18/2012 wef 17/01/2012]*

## FIRST SCHEDULE

*[Deleted by S 373/2005 wef 01/07/2005]*

## SECOND SCHEDULE

Regulation 14

### EXEMPTIONS FROM SECTIONS 82(1) AND 99B(1) OF ACT

*[S 709/2010 wef 26/11/2010]*

#### **Definitions**

1. In this Schedule —

“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);

“base capital”, in relation to a corporation, means the sum of —

(a) the following items in the latest accounts of the corporation:

(i) paid-up ordinary share capital; and

(ii) paid-up irredeemable and non-cumulative preference share capital; and

*[S 170/2013 wef 28/03/2013]*

(b) any unappropriated profit or loss in the latest audited accounts of the corporation,

SECOND SCHEDULE — *continued*

less any interim loss in the latest accounts of the corporation and any dividend that has been declared since the date of the latest audited accounts of the corporation;

[S 385/2012 wef 07/08/2012]

“connected person”, in relation to any individual, means —

- (a) his spouse, son, adopted son, step-son, daughter, adopted daughter, step-daughter, father, step-father, mother, step-mother, brother, step-brother, sister or step-sister; or
- (b) a firm or corporation in which he or any of the persons referred to in paragraph (a) has control of not less than 50% of the voting power, whether such control is exercised individually or jointly;

“designated market-maker” means a corporation who —

- (a) carries on business to deal in designated securities as a market-maker; and
- (b) is approved as a designated market-maker by the Singapore Exchange Securities Trading Limited, in accordance with its business rules;

“designated securities” means —

- (a) exchange traded fund interests; or
- (b) structured warrants,

which have received approval in-principle for listing and quotation on, or are listed for quotation on, the Singapore Exchange Securities Trading Limited;

“exchange traded fund interest” means any unit in a collective investment scheme concerned with the acquisition, holding, management or disposal of a portfolio of predetermined constituent assets in predetermined proportions, which constituent assets principally comprise securities listed for quotation on any securities exchange or overseas securities exchange; being a unit that is —

- (a) listed for quotation, or has received approval in-principle for listing and quotation, on any securities exchange; and
- (b) created and redeemed as part of a block of units in the collective investment scheme in exchange for the constituent assets in the portfolio;

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

SECOND SCHEDULE — *continued*

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

“investment company” has the same meaning as in section 355(1) of the Companies Act (Cap. 50);

“investment contract” means any contract, scheme or arrangement which in substance and irrespective of the form thereof involves the investment of money in or under such circumstances that the investor acquires or may acquire an interest in or right in respect of property which under or in accordance with the terms of investment will, or may at the option of the investor, be used or employed in common with any other interest in or right in respect of property acquired in or under like circumstances;

“irredeemable and non-cumulative preference share capital” means preference share capital consisting of preference shares that satisfy all of the following requirements:

- (a) the principal of the shares is perpetual;
- (b) the shares are not callable at the initiative of the issuer of the shares or the shareholders, and the principal of the shares is never repaid outside of liquidation of the issuer, except in the case of a repurchase or other manner of reduction of share capital that is initiated by the issuer and permitted under written law; and
- (c) the issuer has full discretion to cancel dividend payments, and —
  - (i) the cancellation of dividend payments is not an event of default of the issuer under any agreement;
  - (ii) the issuer has full access to cancelled dividend payments to meet its obligations as they fall due; and
  - (iii) the cancellation of dividend payments does not result in any restriction being imposed on the issuer under any agreement, except in relation to dividend payments to ordinary shareholders;

[S 170/2013 wef 28/03/2013]

“market-maker” means a corporation which —

- (a) through a facility, at a place or otherwise, regularly quotes the prices at which it proposes to acquire or dispose of designated securities for its own account; and

SECOND SCHEDULE — *continued*

(b) is ready, willing and able to effect transactions in the designated securities at the quoted prices;

“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 branches outside of Singapore;

*[S 385/2012 wef 07/08/2012]*

“order-filler” means an individual who is registered as such with a futures exchange for the sole purpose of entering into contracts on the floor of that futures exchange on behalf of members of that futures exchange;

“qualified arrangement” means any of the arrangements referred to in paragraphs (i) to (xii) of the definition of “collective investment scheme” in section 2(1) of the Act;

“quote” means to display or provide on a securities market of a securities exchange information concerning the particular prices or particular consideration at which offers or invitations to sell, purchase or exchange issued securities are made on that securities market, being offers or invitations that are intended or may reasonably be expected to result, directly or indirectly, in the making or acceptance of offers to sell, purchase or exchange issued securities;

“relevant offence” means —

(a) an offence, whether under the law of Singapore or elsewhere, 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 the offender had acted fraudulently or dishonestly;

(b) an offence under the Companies Act involving lack of diligence in the discharge of the duties of a director of a company;

(c) an offence under the Act or any regulations made under the Act;  
or

(d) an offence under the Banking Act (Cap. 19), the Commodity Trading Act (Cap. 48A), 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), the Financial Advisers Act (Cap. 110), or any subsidiary legislation made under any of these Acts;

SECOND SCHEDULE — *continued*

“securities borrowing and lending facility” means the facility established and operated by the Central Depository (Pte) Ltd for the lending and borrowing of securities;

“special purpose corporation” means a corporation established to acquire and own an aircraft which is to be leased out;

“structured warrant” means an instrument issued by a financial institution, on an underlying financial instrument not issued by that financial institution, which gives the holder the right —

(a) to purchase from, or sell to, the financial institution that underlying financial instrument in accordance with the terms of issue of the instrument; or

(b) to receive from the financial institution a cash payment calculated by reference to the fluctuations in the value or price of that underlying financial instrument and in accordance with the terms of issue of the instrument;

“underlying financial instrument” includes any share, basket of shares and share index.

## Dealing in Securities

**Exemption from requirement to hold capital markets services licence to deal in securities**

2. The following persons shall be exempted from the requirement to hold a capital markets services licence to carry on business in dealing in securities, subject to the conditions and restrictions specified:

(a) a person when carrying on business in dealing in securities for his own account, or an account belonging to and maintained wholly for the benefit of a related corporation, and with or through —

(i) the holder of a capital markets services licence to deal in securities;

(ii) a bank licensed under the Banking Act;

(iii) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act;

(iv) a bank licensed, registered, approved or otherwise regulated under the laws of a jurisdiction outside Singapore to conduct banking business, but only in relation to securities that are not quoted on a securities exchange;

SECOND SCHEDULE — *continued*

- (v) a corporation or firm licensed or registered to carry on business in dealing in securities under the laws of a jurisdiction outside Singapore, but only in relation to securities that are not quoted on a securities exchange; or
- (vi) the Central Depository (Pte) Ltd pursuant to its securities borrowing and lending facility;

*[S 709/2010 wef 26/11/2010]*

- (b) a person whose dealing in securities is solely incidental to his carrying on business in —
  - (i) fund management;
  - (ii) providing custodial services for securities; or
  - (iii) securities financing;
- (c) an investment company when dealing in securities solely in connection with its acting as an underwriter or sub-underwriter of the issue of those securities for its own account;
- (d) the Central Depository (Pte) Ltd in respect of its dealing in securities —
  - (i) that is solely incidental to its business of providing depository services for securities; or
  - (ii) that is done by reason only of its entering into a transaction pursuant to its securities borrowing and lending facility, and in compliance with conditions specified in writing by the Authority;
- (e) a person when carrying on business in dealing in bonds with —
  - (i) an accredited investor; or
  - (ii) a person whose business involves the acquisition and disposal of or holding of securities (whether as principal or agent);
- (f) a corporation when subscribing for securities on behalf of a customer as nominee, provided that such corporation —
  - (i) has no interest in the securities subscribed for other than as a bare trustee; and
  - (ii) is a wholly-owned subsidiary of —
    - (A) the holder of a capital markets services licence to deal in securities;

SECOND SCHEDULE — *continued*

- (B) a bank licensed under the Banking Act (Cap. 19);
  - (C) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186);
  - (D) a finance company licensed under the Finance Companies Act (Cap. 108);
  - (E) a securities exchange;
  - (F) an exchange holding company; or
  - (G) a clearing house;
- (g) a person approved by the Authority when, pursuant to the establishment and promotion of an aircraft leasing business in Singapore, he deals in the shares of a special purpose corporation with —
- (i) a bank licensed under the Banking Act (Cap. 19), a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186), or such other financial institution as may be approved by the Authority; or
  - (ii) a corporation with total net assets exceeding \$10 million in value or its equivalent in value in a foreign currency as determined in accordance with the most recent audited balance-sheet of the corporation or, in the case of a corporation which is not required to prepare audited accounts, a balance-sheet certified by the corporation as giving a true and fair view of the state of affairs of the corporation as at the end of the period to which it relates,  
  
(referred to in this sub-paragraph as a designated institution) if, and only if, such dealing in shares is subject to a prohibition that the designated institution may not subsequently dispose of the shares of the special purpose corporation except to another designated institution;
- (h) a trustee of a qualified arrangement in respect of securities whose dealing in securities is solely incidental to the management and administration of such arrangement;
- (i) a designated market-maker when carrying on business in dealing in designated securities for its own account or for the account of any of its related corporations;
- (j) a financial adviser licensed under the Financial Advisers Act (Cap. 110), or a person exempted under section 23 or 100 of that

SECOND SCHEDULE — *continued*

Act in respect of the marketing of any collective investment scheme, when marketing, or redeeming units of, any collective investment scheme;

- (k) any responsible person for a collective investment scheme —
- (i) that is authorised under section 286 of the Act;
  - (ii) that is recognised under section 287 of the Act; or
  - (iii) where the units of the scheme have been, is or will be, offered in reliance on an exemption under Subdivision (4) of Division 2 of Part XIII of the Act,

in respect of his dealing in securities being —

- (A) units of that scheme or the underlying securities that comprise the investment of funds under that scheme, provided that such responsible person is also the holder of a capital markets services licence, or an exempt person, in respect of fund management; or
- (B) units of that scheme, provided that the dealing is effected through any of the following persons:
  - (BA) the holder of a capital markets services licence to deal in securities;
  - (BB) an exempt person in respect of dealing in securities being units of any collective investment scheme;
  - (BC) a financial adviser licensed under the Financial Advisers Act (Cap. 110) to market collective investment schemes; or
  - (BD) an exempt financial adviser as defined in the Financial Advisers Act in respect of marketing of collective investment schemes.

*[S 373/2005 wef 01/07/2005]*

Trading in futures contracts

**Exemption from requirement to hold capital markets services licence to trade in futures contracts**

3. The following persons shall be exempted from the requirement to hold a capital markets services licence to carry on business in trading in futures contracts, subject to the conditions and restrictions specified:

SECOND SCHEDULE — *continued*

- (a) a person when carrying on business in trading in futures contracts for his own account or an account belonging to and maintained wholly for the benefit of a related corporation or connected person;

*[S 709/2010 wef 26/11/2011]*

- (b) a person whose trading in futures contracts is solely incidental to his carrying on business in fund management;
- (c) an order-filler, provided that he shall not be or shall cease to be exempted if —
- (i) he is or becomes a representative or employee of the holder of a capital markets services licence to trade in futures contracts;
  - (ii) he is or becomes an undischarged bankrupt whether in Singapore or elsewhere; or
  - (iii) he has been convicted of a relevant offence.

## Leveraged Foreign Exchange Trading

**Exemption from requirement to hold capital markets services licence to carry out leveraged foreign exchange trading**

4.—(1) The following persons shall be exempted from the requirement to hold a capital markets services licence to carry on business in leveraged foreign exchange trading, subject to the conditions and restrictions specified:

- (a) a person who carries on business in leveraged foreign exchange trading —
- (i) for his own account and with a related corporation or connected person; or
  - (ii) for his own account or an account belonging to and maintained wholly for the benefit of a related corporation or connected person, and with or through —

*[S 709/2010 wef 26/11/2010]*

- (A) the holder of a capital markets services licence to carry on business in leveraged foreign exchange trading;
- (B) a bank licensed under the Banking Act (Cap. 19);
- (C) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186);

SECOND SCHEDULE — *continued*

(D) a bank licensed, registered, approved or otherwise regulated under the laws of a jurisdiction outside Singapore to conduct banking business; or

(E) a corporation or firm licensed or registered to carry on business in leveraged foreign exchange trading under the laws of a jurisdiction outside Singapore;

(b) a person whose leveraged foreign exchange trading is solely incidental to his carrying on business in fund management.

*[S 385/2012 wef 07/08/2012]*

(c) *[Deleted by S 385/2012 wef 07/08/2012]*

(2) A person otherwise exempted under sub-paragraph (1) shall not be or shall cease to be so exempted if he also carries on business for leveraged foreign exchange trading other than in accordance with sub-paragraph (1)(a) or (b).

*[S 385/2012 wef 07/08/2012]*

(3) An individual otherwise exempted under sub-paragraph (1)(a) shall not be or shall cease to be so exempted if —

(a) he is or becomes a representative or employee of the holder of a capital markets services licence to carry out leveraged foreign exchange trading;

(b) he is or becomes an undischarged bankrupt whether in Singapore or elsewhere; or

(c) he has been convicted of a relevant offence.

*[S 385/2012 wef 07/08/2012]*

(4) A corporation otherwise exempted under sub-paragraph (1)(a) shall not be or shall cease to be so exempted if —

(a) the corporation or its substantial shareholder is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(b) execution against the corporation or its substantial shareholder in respect of a judgment debt has been returned unsatisfied in whole or in part;

(c) a receiver, a receiver and manager, a 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 its substantial shareholder;

SECOND SCHEDULE — *continued*

- (d) the corporation or its substantial shareholder has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with its creditors, being a compromise or scheme of arrangement that is still in operation; or
- (e) the corporation or its substantial shareholder has been convicted of a relevant offence.

*[S 385/2012 wef 07/08/2012]*

(4A) *[Deleted by S 385/2012 wef 07/08/2012]*

(5) *[Deleted by S 385/2012 wef 07/08/2012]*

(6) *[Deleted by S 385/2012 wef 07/08/2012]*

(7) *[Deleted by S 385/2012 wef 07/08/2012]*

(8) *[Deleted by S 385/2012 wef 07/08/2012]*

Fund Management

**Exemption from requirement to hold capital markets services licence for fund management**

5.—(1) The following persons shall be exempted from the requirement to hold a capital markets services licence to carry on business in fund management, subject to the conditions and restrictions specified:

- (a) a headquarters company or Finance and Treasury Centre which carries on a class of business involving fund management but only to the extent that the business in fund management 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 carries on business in fund management for or on behalf of any of its related corporations, so long as in carrying on such business, none of the securities, positions in futures contracts, or foreign exchange arising from foreign exchange trading or leveraged foreign exchange trading being managed, are —
  - (i) held on trust for another person by the second-mentioned corporation;
  - (ii) the result of any investment contract entered into by the second-mentioned corporation; or
  - (iii) beneficially owned by any person, other than the first-mentioned or second-mentioned corporation;

SECOND SCHEDULE — *continued*

- (c) an individual who carries on business in fund management for or on behalf of —
- (i) his spouse, son, adopted son, step-son, daughter, adopted daughter, step-daughter, father, step-father, mother, step-mother, brother, step-brother, sister or step-sister; or
  - (ii) a firm or corporation in which he or any of the persons referred to in sub-paragraph (i) has control of 100% of the voting power, whether such control is exercised individually or jointly with any person referred to in that sub-paragraph,

so long as in carrying on such business, none of the securities, positions in futures contracts, or foreign exchange arising from foreign exchange trading or leveraged foreign exchange trading being managed, are —

- (A) held on trust for another person by any person referred to in sub-paragraph (i) or (ii);
- (B) the result of any investment contract entered into by any person referred to in sub-paragraph (i) or (ii); or
- (C) beneficially owned by any person, other than the individual or any person referred to in sub-paragraph (i) or (ii);

*[S 170/2013 wef 28/03/2013]*

(d) *[Deleted by S 385/2012 wef 07/08/2012]*

- (e) the holder of a capital markets services licence to trade in futures contracts which carries on business in fund management in accordance with regulation 20;
- (f) a Service Company whose business in fund management is solely incidental to its carrying on business as an agent of a member of Lloyd's;
- (g) a financial adviser —
- (i) who is licensed under the Financial Advisers Act (Cap. 110) in respect of the provision of the financial advisory services specified in paragraphs 1 and 3 of the Second Schedule to the Act; and
  - (ii) who carries on business in fund management for or on behalf of another person (referred to in this paragraph as the client) in connection with any advice that is given by the licensed financial adviser to the client concerning units in a collective

SECOND SCHEDULE — *continued*

investment scheme or a portfolio of units in various collective investment schemes,

provided that —

- (A) the scope of such business is confined to the management of one or more portfolios comprising solely of units in one or more collective investment schemes, all of which are not listed on a securities exchange;
- (B) in carrying on business in fund management for or on behalf of the client, the licensed financial adviser obtains the prior approval of the client in respect of each and every transaction for or on behalf of the client and only receives the client's money or property in respect of approved transactions and services rendered by the licensed financial adviser in relation to such business; and
- (C) where the licensed financial adviser receives the client's money or property under sub-paragraph (B), such money or property, except to the extent that it is received wholly for services rendered by the licensee, shall be handed over to —
  - (CA) the manager or trustee of the collective investment scheme;
  - (CB) the holder of a capital markets services licence under the Act to provide custodial services for securities which is authorised by the client to receive the client's money or property; or
  - (CC) a person exempt under the 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 receives the money or property or at a later date if, and only if, it has the client's prior written consent to do so;

*[S 373/2005 wef 01/07/2005]*

*[S 385/2012 wef 07/08/2012]*

- (h) a person who carries on business in fund management in Singapore on behalf of qualified investors where the assets managed by it comprise securities issued by one or more corporations or interests in bodies unincorporate, where the sole purpose of each such corporation or

SECOND SCHEDULE — *continued*

body unincorporate is to hold, whether directly or through another entity or trust, immovable assets;

*[S 385/2012 wef 07/08/2012]*

*[S 170/2013 wef 28/03/2013]*

(i) a corporation —

(i) which carries on business in Singapore in fund management on behalf of not more than 30 qualified investors, of which not more than 15 are collective investment schemes, closed-end funds, or limited partnerships referred to in sub-paragraph (3)(e); and

(ii) which is registered with the Authority in accordance with sub-paragraph (7) and the registration is and continues to be published on the Authority's website.

*[S 385/2012 wef 07/08/2012]*

(2) For the purposes of sub-paragraph (1) —

(a) a person otherwise exempted under sub-paragraph (1) shall not be or shall cease to be so exempted if he also carries on business in fund management other than in accordance with sub-paragraph (1)(a), (b), (c), (e), (f), (h) or (i), as the case may be;

*[S 385/2012 wef 07/08/2012]*

(b) a person who is exempted under sub-paragraph (1)(a) or (b) may, in ascertaining the number of qualified investors for the purpose of exemption under sub-paragraph (1)(i), exclude those persons on behalf of whom he carries on business in fund management under sub-paragraph (1)(a) or (b);

*[S 170/2013 wef 28/03/2013]*

(bb) a person otherwise exempted under sub-paragraph (1)(i) shall not be or shall cease to be so exempted if —

(i) it is the holder of a capital markets services licence in respect of any regulated activity;

*[S 385/2012 wef 07/08/2012]*

(ii) it has not commenced business in fund management in accordance with sub-paragraph (1)(i) within 6 months from the date of its registration by the Authority as a Registered Fund Management Company under sub-paragraph (7); or

*[S 385/2012 wef 07/08/2012]*

SECOND SCHEDULE — *continued*

- (iii) it has ceased to carry on business in fund management in accordance with sub-paragraph (1)(i), and has not resumed business in the same regulated activity in accordance with that sub-paragraph, within a continuous period of 6 months from the date of cessation.

[S 373/2005 wef 01/07/2005]

[S 385/2012 wef 07/08/2012]

- (c) a person who is otherwise exempted under sub-paragraph (1)(i) and is also exempted under regulation 27(1)(d) of the Financial Advisers Regulations (Rg 2) from the requirement to hold a financial adviser's licence under the Financial Advisers Act (Cap. 110) in respect of providing any financial advisory service, other than —

- (i) marketing collective investment schemes; and
- (ii) arranging contracts of insurance in respect of life policies,

shall not be or shall cease to be exempted under sub-paragraph (1)(i) if the number of qualified investors on behalf of whom he carries on business in fund management and the number of accredited investors to whom he provides financial advisory services exceed 30 in total.

[S 385/2012 wef 07/08/2012]

(3) In this paragraph, each of the following persons, schemes and funds shall be considered as one qualified investor:

- (a) an accredited investor, other than —
- (i) one who is a participant in a collective investment scheme referred to in sub-paragraph (b);
  - (ii) one who is a holder of a unit in a closed-end fund referred to in sub-paragraph (c);
  - (iii) one which is a corporation referred to in section 4A(1)(a)(ii) of the Act or an entity referred to in regulation 2(b) of the Securities and Futures (Prescribed Specific Classes of Investors) Regulations 2005 (G.N. No. S 369/2005) —
    - (A) which is related to or controlled by a person referred to in sub-paragraph (1)(i), or a key officer or substantial shareholder of such person; and

[S 385/2012 wef 07/08/2012]

- (B) the shares or debentures of which are, after 28th May 2008, the subject of an offer or invitation for subscription

SECOND SCHEDULE — *continued*

or purchase made to any person who is not an accredited investor; or

- (iv) a corporation or an entity which is a collective investment scheme or a closed-end fund the units of which are, after 28th May 2008, the subject of an offer or invitation made to any person who is not an accredited investor;
- (b) a collective investment scheme the units of which are the subject of an offer or invitation for subscription or purchase made —
  - (i) in Singapore only to accredited investors or institutional investors or both; or  

*[S 385/2012 wef 07/08/2012]*
  - (ii) elsewhere if, after 28th May 2008, such offer or invitation is made only to accredited investors, or investors in an equivalent class under the laws of the country or territory in which the offer or invitation is made, or institutional investors or both;  

*[S 385/2012 wef 07/08/2012]*
- (c) a closed-end fund the units of which are the subject of an offer or invitation for subscription or purchase made only to accredited investors, or investors in an equivalent class under the laws of the country or territory in which the offer or invitation is made, or institutional investors or both;  

*[S 385/2012 wef 07/08/2012]*
- (d) an institutional investor, other than a collective investment scheme;  

*[S 385/2012 wef 07/08/2012]*
- (e) a limited partnership, where the limited partners comprise solely of accredited investors or investors in an equivalent class under the laws of the country or territory in which the partnership is formed, or institutional investors, or both;  

*[S 385/2012 wef 07/08/2012]*
- (f) any other person that the Authority may, from time to time, by a guideline issued by the Authority, determine;  

*[S 385/2012 wef 07/08/2012]*

(4) An individual shall not be or shall cease to be exempted from the requirement to hold a capital markets services licence to carry on business in fund management if —

SECOND SCHEDULE — *continued*

- (a) he is or becomes a representative or employee of the holder of a capital markets services licence for fund management;
  - (b) he is or becomes an undischarged bankrupt whether in Singapore or elsewhere; or
  - (c) he has been convicted of a relevant offence.
- (5) A corporation otherwise exempted under sub-paragraph (1)(a), (b), (h) or (i) shall not be or shall cease to be so exempted if —
- (a) the corporation or its substantial shareholder is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
  - (b) execution against the corporation or its substantial shareholder in respect of a judgment debt has been returned unsatisfied in whole or in part;
  - (c) a receiver, a receiver and manager, a 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 its substantial shareholder;
  - (d) the corporation or its substantial shareholder has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with its creditors, being a compromise or scheme of arrangement that is still in operation; or
  - (e) the corporation or its substantial shareholder has been convicted of a relevant offence.

*[S 385/2012 wef 07/08/2012]*

*[S 170/2013 wef 28/03/2013]*

- (6) A person who is exempted under sub-paragraph (1)(i) shall —
- (a) take reasonable measures to verify that the persons on behalf of whom he carries on business in fund management are qualified investors; and
  - (b) ensure that proper records are kept of any document evidencing the status of such persons.

*[S 385/2012 wef 07/08/2012]*

(7) A corporation which seeks to be exempted under sub-paragraph (1)(i) shall register with the Authority as a Registered Fund Management Company by lodging with the Authority a notice of commencement of its business in Form 22A prior to the commencement of its business in fund management, accompanied by a

SECOND SCHEDULE — *continued*

non-refundable annual fee which shall be paid in the manner specified by the Authority in writing.

*[S 385/2012 wef 07/08/2012]*

(7A) A corporation shall not represent itself as a Registered Fund Management Company, unless —

- (a) it has fulfilled all the requirements in sub-paragraph (1)(i); and
- (b) the registration of the corporation as a Registered Fund Management Company is and continues to be published on the Authority's website.

*[S 385/2012 wef 07/08/2012]*

(7B) The Authority may refuse to register a corporation under sub-paragraph (7) unless the corporation has demonstrated to the Authority's satisfaction that —

- (a) it is able to fulfil the requirements under sub-paragraph (1)(i)(i) and regulation 13 or both regulations 13 and 13B (as the case may be) as applied to a Registered Fund Management Company under regulation 54A(1);

*[S 170/2013 wef 28/03/2013]*

- (b) if it is incorporated in Singapore, its base capital, or if it is a foreign company, its net head office funds, is not less than \$250,000;
- (c) it employs at least 2 persons, each of whom has at least 5 years' experience that is relevant to the fund management activities it intends to carry out; and
- (d) the total value of its managed assets does not exceed \$250 million.

*[S 385/2012 wef 07/08/2012]*

(7C) The Authority may cancel the registration of a corporation under sub-paragraph (7) if the corporation is issued with a capital markets services licence in fund management.

*[S 385/2012 wef 07/08/2012]*

(7D) A Registered Fund Management Company shall not cause or permit —

- (a) where it is incorporated in Singapore, its base capital; or
- (b) where it is a foreign company, its net head office funds,

to fall below \$250,000.

*[S 385/2012 wef 07/08/2012]*

SECOND SCHEDULE — *continued*

(7E) A Registered Fund Management Company shall at all times employ at least 2 persons, each of whom has at least 5 years' experience that is relevant to the fund management activities it is carrying out.

*[S 385/2012 wef 07/08/2012]*

(7F) The total value of the managed assets of a Registered Fund Management Company shall not at any time exceed \$250 million.

*[S 385/2012 wef 07/08/2012]*

(7G) If a corporation which carries on business in fund management in reliance on sub-paragraph (1)(i) fails to meet the criterion in sub-paragraph (1)(i)(i) or to comply with sub-paragraph (7D), (7E) or (7F), or becomes aware that it will likely fail to meet any of those criteria or to comply with sub-paragraph (7D), (7E) or (7F), it shall —

- (a) immediately notify the Authority; and
- (b) cease any increase in positions, and not accept assets for fund management, until such time as advised by the Authority.

*[S 385/2012 wef 07/08/2012]*

(7H) If the Authority becomes aware that a corporation which carries on business in fund management in reliance on sub-paragraph (1)(i) fails to meet any criterion in sub-paragraph (1)(i)(i) or to comply with sub-paragraph (7D), (7E) or (7F), the Authority may direct the Registered Fund Management Company to operate its business in such manner and on such conditions as the Authority may impose, and the corporation to whom such direction is issued shall comply with the direction.

*[S 385/2012 wef 07/08/2012]*

(7I) A Registered Fund Management Company shall lodge with the Authority —

- (a) a notice of change of particulars in Form 23A providing any change in the particulars in the notice lodged under sub-paragraph (7), not later than 14 days after the date of the change;
- (b) a notice of cessation of business in Form 24A at any time prior to the cessation of its business in fund management; and
- (c) an annual declaration in Form 25A within one month after the end of each of its financial years.

*[S 385/2012 wef 07/08/2012]*

SECOND SCHEDULE — *continued*

(7J) A Registered Fund Management Company shall submit an auditor's report in Form 25B, no later than 5 months after the end of each of its financial years.

*[S 385/2012 wef 07/08/2012]*

(7K) In this paragraph, "managed assets", in relation to a corporation (including one that is a Registered Fund Management Company), means all of the following:

- (a) moneys and assets contracted to, drawn down by or are under the discretionary authority granted by the customer to the corporation and in respect of which it is carrying out fund management;
- (b) moneys and assets contracted to the corporation, and are under the non-discretionary authority granted by the customer to the corporation, and in respect of which the corporation is carrying out fund management;
- (c) moneys and assets contracted to the corporation, but which have been sub-contracted to another party and for which the other party is carrying out fund management, whether on a discretionary authority granted by the customer or otherwise.

*[S 385/2012 wef 07/08/2012]*

(7L) In sub-paragraph (7K), moneys and assets are contracted to a corporation if they are the subject-matter of a contract for fund management between the corporation and its customer.

*[S 385/2012 wef 07/08/2012]*

(8) Every person exempted under sub-paragraph (1)(a), (e), (h) or (i) shall furnish to the Authority, at such time and in such manner as the Authority may direct, all such information concerning his business in fund management as the Authority may reasonably require.

*[S 385/2012 wef 07/08/2012]*

(9) *[Deleted by S 385/2012 wef 07/08/2012]*

Custodial Services for Securities

**Exemption from requirement to hold capital markets services licence to provide custodial services for securities**

6.—(1) The following persons shall be exempted from the requirement to hold a capital markets services licence to carry on business in providing custodial services for securities, subject to the conditions and restrictions specified:

- (a) a trustee of a qualified arrangement in respect of securities when carrying out his duties of managing and administering such arrangement;

SECOND SCHEDULE — *continued*

- (b) a company or society registered under the Insurance Act (Cap. 142) when carrying on business in providing custodial services only in respect of units of any collective investment scheme;
- (c) a Service Company acting as an agent in Singapore for any member of Lloyd's, when carrying on business in providing custodial services only in respect of units of any collective investment scheme.

(2) Part III of these Regulations shall, with the necessary modifications, apply to each of the persons referred to in sub-paragraph (1)(b) and (c) as if it were the holder of a capital markets services licence and, where applicable, to a representative of any of these persons when acting as such, as if he were the holder of a representative's licence.

Advising on Corporate Finance

**Exemption from requirement to hold capital markets services licence to advise on corporate finance**

7.—(1) The following persons shall be exempted from the requirement to hold a capital markets services licence to carry on business in advising on corporate finance, subject to the conditions and restrictions specified:

- (a) a person who carries on business in giving advice on corporate finance to a related corporation, provided that —
  - (i) such advice is not specifically given for the making of any offer of securities to the public by the related corporation; and
  - (ii) where the related corporation is —
    - (A) a public company;
    - (B) listed on a securities exchange; or
    - (C) a subsidiary of a corporation listed on a securities exchange,such advice is not circulated to the shareholders (other than shareholders who are accredited investors) of (in the case of sub-paragraph (A) or (B)) the related corporation or (in the case of sub-paragraph (C)) the listed corporation, or is otherwise made known to the public;
- (b) a person resident in Singapore who carries on business in Singapore in giving advice on corporate finance to accredited investors, provided that —

SECOND SCHEDULE — *continued*

- (i) such advice is not specifically given for the making of any offer of securities to the public by the accredited investor to whom the advice was given; and
- (ii) where the accredited investor is —
  - (A) a public company;
  - (B) listed on a securities exchange; or
  - (C) a subsidiary of a corporation listed on a securities exchange,

such advice is not circulated to the shareholders (other than shareholders who are accredited investors) of (in the case of sub-paragraph (A) or (B)) the accredited investor or (in the case of sub-paragraph (C)) the listed corporation, or is otherwise made known to the public;

*[S 275/2008 wef 28/05/2008]*

- (c) a person who advises another person concerning any arrangement, reconstruction or take-over of any corporation or any of the corporation's assets or liabilities, provided that —
  - (i) such advice is not specifically given for the making of any offer of securities to the public by the second-mentioned person; and
  - (ii) where the second-mentioned person is —
    - (A) a public company;
    - (B) listed on a securities exchange; or
    - (C) a subsidiary of a corporation listed on a securities exchange,

such advice is not circulated to the shareholders (other than shareholders who are accredited investors) of (in the case of sub-paragraph (A) or (B)) the second-mentioned person or (in the case of sub-paragraph (C)) the listed corporation, or is otherwise made known to the public;

- (d) a person who carries on business in giving advice to another person concerning compliance with or in respect of any laws or regulatory requirements relating to the raising of funds not involving any securities.

(2) A person otherwise exempted under sub-paragraph (1)(a), (b) or (c) shall not be or shall cease to be so exempted if he also carries on business in advising on

SECOND SCHEDULE — *continued*

corporate finance other than in accordance with sub-paragraph (1)(a), (b), (c) or (d).

(2A) A person otherwise exempted under sub-paragraph (1)(b) shall not be or shall cease to be so exempted if —

(a) he is the holder of a capital markets services licence in respect of any regulated activity;

*[S 404/2005 wef 22/06/2005]*

(b) he has not commenced business in advising on corporate finance in accordance with sub-paragraph (1)(b) 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 sub-paragraph (6)(a); or

(c) he has ceased to carry on business in advising on corporate finance in accordance with sub-paragraph (1)(b), and has not resumed business in the same regulated activity in accordance with that sub-paragraph, within a continuous period of 6 months from the date of cessation.

*[S 373/2005 wef 01/07/2005]*

(3) An individual otherwise exempted under sub-paragraph (1) shall not be or shall cease to be so exempted if —

(a) he is or becomes a representative or employee of the holder of a capital markets services licence in advising on corporate finance;

(b) he is or becomes an undischarged bankrupt whether in Singapore or elsewhere; or

(c) he has been convicted of a relevant offence.

(4) A corporation otherwise exempted under sub-paragraph (1) shall not be or shall cease to be so exempted if —

(a) the corporation or its substantial shareholder is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(b) execution against the corporation or its substantial shareholder in respect of a judgment debt has been returned unsatisfied in whole or in part;

(c) a receiver, a receiver and manager, a 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 its substantial shareholder;

SECOND SCHEDULE — *continued*

- (d) the corporation or its substantial shareholder has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with its creditors, being a compromise or scheme of arrangement that is still in operation; or
  - (e) the corporation or its substantial shareholder has been convicted of a relevant offence.
- (5) A person who is exempted under sub-paragraph (1)(b) shall —
- (a) take reasonable measures to verify that the persons to whom he carries on business in advising on corporate finance are accredited investors; and
  - (b) ensure that proper records are kept of any document evidencing the status of such persons.
- (6) A person who is exempted under sub-paragraph (1)(b) shall lodge with the Authority —
- (a) a notice of commencement of business in Form 22 not later than 14 days after the commencement of his business in advising on corporate finance;
  - (b) a notice of change of particulars in Form 23 providing any change in the particulars in the notice under sub-paragraph (a), not later than 14 days after the date of the change;
  - (c) a notice of cessation of business in Form 24 not later than 14 days after the cessation of his business in advising on corporate finance; and
  - (d) a declaration in Form 25 within 14 days after the end of the financial year of the person.
- (7) Every person exempted under sub-paragraph (1)(b) shall furnish to the Authority, at such time and in such manner as the Authority may direct, all such information concerning his business in advising on corporate finance as the Authority may reasonably require.
- (8) A person exempted under sub-paragraph (1)(b) who has, at any time before 1st October 2002, lodged a notice of commencement of business in the prescribed form under regulation 41(5)(a) of the revoked Securities Industry Regulations (Cap. 289, Rg 1) in relation to the activity specified in paragraph (a) of the definition of “investment adviser” in section 2 (1) of the repealed Securities Industry Act (Cap. 289) shall be deemed to have lodged a notice of commencement of business in compliance with sub-paragraph (6)(a).

SECOND SCHEDULE — *continued*

## Other Exemptions

**Exemption from section 99B(1) of Act**

8.—(1) Subject to sub-paragraph (7), an employee of the holder of a capital markets services licence for dealing in securities shall be exempted from section 99B(1) of the Act when carrying out any of the following for the account of the licence holder or for an account belonging to and maintained wholly for the benefit of a corporation related to the licence holder:

- (a) dealing in securities on a securities exchange or recognised market operator; or
- (b) dealing in securities with —
  - (i) an institutional investor; or
  - (ii) an entity licensed, approved, registered or otherwise regulated by a regulator who is responsible for the supervision of financial institutions in a jurisdiction other than Singapore.

(2) Subject to sub-paragraph (7), an employee of the holder of a capital markets services licence for trading in futures contract shall be exempted from section 99B(1) of the Act when carrying out regulated activities for the account of the licence holder or for an account belonging to and maintained wholly for the benefit of a corporation related to the licence holder.

(3) Subject to sub-paragraph (7), an employee of the holder of a capital markets services licence for leveraged foreign exchange trading shall be exempted from section 99B(1) of the Act when carrying out any of the following for the account of the licence holder or for an account belonging to and maintained wholly for the benefit of a corporation related to the licence holder:

- (a) leveraged foreign exchange trading with an institutional investor; or
- (b) leveraged foreign exchange trading with an entity licensed, approved, registered or otherwise regulated by a regulator who is responsible for the supervision of financial institutions in a jurisdiction other than Singapore.

(4) Subject to sub-paragraph (7), an employee of a person exempted under section 99(1)(a), (b) or (c) of the Act in respect of the activity of dealing in securities shall be exempted from section 99B(1) of the Act when carrying out any of the following for the account of the exempt person or for an account belonging to and maintained wholly for the benefit of a corporation related to the exempt person:

- (a) dealing in securities on a securities exchange or recognised market operator; or

SECOND SCHEDULE — *continued*

(b) dealing in securities with —

- (i) an institutional investor; or
- (ii) an entity licensed, approved, registered or otherwise regulated by a regulator who is responsible for the supervision of financial institutions in a jurisdiction other than Singapore.

(5) Subject to sub-paragraph (7), an employee of a person exempted under section 99(1)(a), (b) or (c) of the Act in respect of the activity of trading in futures contract shall be exempted from section 99B(1) of the Act when carrying out that activity for the account of the exempt person or for an account belonging to and maintained wholly for the benefit of a corporation related to the exempt person.

(6) Subject to sub-paragraph (7), an employee of a person exempted under section 99(1)(a), (b) or (c) of the Act in respect of the activity of leveraged foreign exchange trading shall be exempted from section 99B(1) of the Act when carrying out any of the following for the account of the exempt person or for an account belonging to and maintained wholly for the benefit of a corporation related to the exempt person:

- (a) leveraged foreign exchange trading with an institutional investor; or
- (b) leveraged foreign exchange trading with an entity licensed, approved, registered or otherwise regulated by a regulator who is responsible for the supervision of financial institutions in a jurisdiction other than Singapore.

(7) Sub-paragraphs (1) to (6) —

- (a) shall not apply to any activity of dealing in securities, trading in futures contract or leveraged foreign exchange trading which involves customer account; and
- (b) shall only apply if the employee, when dealing in securities, trading in futures contract or leveraged foreign exchange trading —
  - (i) does not have access to customers' trade and order information; and
  - (ii) is not in a position to control or affect the order or priority of executing customers' orders.

(8) A person shall, when acting as a representative of the holder of a capital markets services licence or person exempt under section 99(1)(a), (b) or (c) of the Act in respect of the activity of securities financing or providing custodial services for securities, be exempted from section 99B(1) of the Act, as the case may be.

[S 709/2010 wef 26/11/2010]

SECOND SCHEDULE — *continued*

**Exemption for exchange holding company**

9. An exchange holding company shall be exempted from the requirement to hold a capital markets services licence in respect of any regulated activity insofar as its carrying out of such regulated activity is solely incidental to its operation as an exchange holding company.

THIRD SCHEDULE

Regulation 6(1) and (6)

FEES

<i>First column</i>	<i>Second column</i>	<i>Third column</i>	<i>Fourth column</i>	
<i>No.</i>	<i>Provision of Act</i>	<i>Matter</i>	<i>Amount</i>	<i>Manner and time of payment</i>
1.	Section 84(3)	Application for grant of a capital markets services licence	\$1,000	In the manner specified by the Authority, at time of application
2.	Section 85(1)	Annual licence fee for capital markets services licence in respect of —  (a) dealing in securities —		(a) Where the holder has no GIRO arrangement with the Authority, in the manner specified by the Authority, by the date specified in the fee advice.  (b) Where the holder has GIRO arrangement with the Authority, by GIRO by the date specified by the Authority in the fee advice.
		(i) where the holder is	\$8,000	

THIRD SCHEDULE — *continued*

a me mbe r of the Sin gapo re Exc hang e Secu ritie s Trad ing Lim ited; or	(ii) whe re the hold er is any othe r per son;	\$4,000
(b) fund management;		\$4,000
(c) advising on corporate finance;		\$4,000
(d) trading in futures contracts;		\$2,000
(e) leveraged foreign exchange trading;		\$2,000
(f) securities financing;		\$2,000
(g) providing custodial services for securities;		\$2,000
(h) real estate investment		\$4,000

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Business) Regulations*

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THIRD SCHEDULE — *continued*

	trust management;		
	(i) providing credit rating services	\$4,000	
3.	Section 90(2) Application to add type(s) of regulated activity to capital markets services licence	\$500	Payable by GIRO by the 16th day of the month following that in which application is made
4.	Section 99K(1) Lodgment of documents under section 99H of the Act for appointment of appointed, provisional or temporary representative	\$100	(a) Where principal is an applicant for capital markets services licence, in the manner specified by the Authority, at time of lodgment.  (b) Where principal is a holder of capital markets services licence, and —  (i) it has no GIRO arrangement with the Authority, in the manner specified by the Authority, by the

THIRD SCHEDULE — *continued*

			date speci fied in the fee advi ce; or	
			(ii) it has GIR O arran gem ent with the Auth ority, by GIR O by the 16th day of the mont h fol low ing that in whic h lodg ment is mad e.	
5.	Section 99K(2)	Annual fee for retention of name of appointed or provisional representative in the public register of representatives in the year in which the name is first entered in the register #, where the regulated activity is —	Amount derived from the formula: $\frac{A}{365} \times Y$ where: “A” is the number of days between the date the name of appointed or provisional representative is first entered in the register and 31st December of same year, both dates inclusive; and “Y” is —	(a) Where principal has no GIRO arrangement with the Authority, in the manner specified by the Authority, by the date specified in the fee advice

THIRD SCHEDULE — *continued*

- |  |  |   |
|--|--|---|
| <p>(a) dealing in securities;</p> <p>(b) fund management;</p> <p>(c) advising on corporate finance;</p> <p>(d) trading in futures contracts;</p> <p>(e) leveraged foreign exchange trading;</p> <p>(f) real estate investment trust management; or</p> <p>(g) providing credit rating services</p> | <p>(a) \$700 where the regulated activity or one of the regulated activities is dealing in securities on behalf of a principal who is a member of the Singapore Exchange Securities Trading Limited; or</p> <p>(b) \$200 where the regulated activity is one of, or the regulated activities are 2 or more of, the following:</p>                          | <p>(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.</p> |
|  | <p>(i) dealing in securities on behalf of a principal who is any other person;</p> <p>(ii) fund management;</p> <p>(iii) advising on corporate finance;</p> <p>(iv) trading in futures contracts;</p> <p>(v) leveraged foreign exchange trading;</p> <p>(vi) real estate investment trust management; or</p> <p>(vii) providing credit rating services</p> |   |
| <p>6. Section 99K(2) Annual fee for retention of name of appointed or provisional representative in the public register of representatives in any other year, where the regulated activity is —</p>  | <p>(a) dealing in securities —</p>   | <p>(a) Where principal has no GIRO arrangement with the Authority, in the manner specified by the Authority, by the date specified in the fee advice.</p>         |

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THIRD SCHEDULE — *continued*

		(b) Where principal has a GIRO arrangement with the Authority, by GIRO by the date specified by the Authority in the fee advice.
(i) where the principal is a member of the Singapore Exchange Securities Trading Limited;	\$700	
(ii) where the principal is any other person;	\$200	
(b) fund management;	\$200	
(c) advising on corporate finance;	\$200	

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(Licensing and Conduct of  
Business) Regulations*

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[CAP. 289, Rg 10

THIRD SCHEDULE — *continued*

- |   |       |
|---|-------|
| (d) trading in futures contracts;               | \$200 |
| (e) leveraged foreign exchange trading;         | \$200 |
| (f) real estate investment trust management; or | \$200 |
| (g) providing credit rating services,           | \$200 |

or where there is more than one regulated activity      the higher or highest of the relevant amounts set out above for those regulated activities

7. Section 99K(3) Fee payable by a temporary representative for retention of name of temporary representative in the public register of representatives, where the regulated activity is<sup>#</sup> —

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

(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.

(a) dealing in securities —

- |                         |       |
|-------------------------|-------|
| (i) where the principal | \$700 |
|-------------------------|-------|

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[2004 Ed. p. 131

THIRD SCHEDULE — *continued*

is a member of the Singapore Exchange Securities Trading Limited; or	
(ii) where the principal is any other person;	\$200
(b) fund management;	\$200
(c) advising on corporate finance;	\$200
(d) trading in futures contracts;	\$200
(e) leveraged foreign exchange trading;	\$200
(f) real estate investment trust management; or	\$200
(g) providing credit rating services,	\$200

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THIRD SCHEDULE — *continued*

	or where there is more than one regulated activity	the higher or highest of the relevant amounts set out above for those regulated activities	
8.	Section 99K(4) Resubmission of a form for lodgment of documents under section 99H(1) of the Act for the appointment of appointed, provisional or temporary representative	\$100	(a) Where principal has no GIRO arrangement with the Authority, in the manner specified by the Authority, by the date specified in the fee advice.  (b) Where principal has GIRO arrangement with the Authority, by GIRO by the 16th day of the month following that in which resubmission is made.
9.	Section 99A(1) Annual fee payable by Registered Fund Management Company for the year of commencement of business	Amount derived from the formula:  $\frac{B}{365} \times \$1,000$	Payable by the date and in the manner specified by the Authority in the fee advice.
		where:  “B” is the number of days between 1st April 2013 or the date of commencement of business (whichever is the later), and 31st December of the same year, both dates inclusive	
	Annual fee payable by Registered Fund Management Company for any year following the year of commencement of business	\$1,000	Payable by the date and in the manner specified by the Authority in the fee advice.

THIRD SCHEDULE — *continued*

10.	Section 317(2)	Inspection of and extraction from records	\$20 per name submitted for inspection inclusive of the goods and services tax chargeable under the Goods and Services Tax Act (Cap. 117A)	(a) Where the person has no GIRO arrangement with the Authority, in the manner specified by the Authority, by the date specified in the fee advice.  (b) Where the principal has a GIRO arrangement with the Authority, by GIRO by the 16th day of the month following that in which the request for inspection of and extraction from record is made.
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#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.

*[S 523/2016 wef 01/11/2016]*

*[S 171/2013 wef 02/04/2013]*

*[S 385/2012 wef 01/04/2013]*

*[S 170/2013 wef 28/03/2013]*

*[S 18/2012 wef 17/01/2012]*

*[S 709/2010 wef 26/11/2010]*

FOURTH SCHEDULE

Regulation 46(3) to (6)

PRODUCT ADVERTISEMENT

1. For the purposes of regulation 46(3), each of the following product advertisements is false or misleading:

FOURTH SCHEDULE — *continued*

- (a) a product advertisement that omits any material information and as a result of which, the product advertisement or any part of the product advertisement is false or misleading;
- (b) a product advertisement that contains a false or misleading statement;
- (c) a product advertisement that contains information that cannot be justified based on the facts known to the person who disseminated or published the product advertisement, or caused the product advertisement to be disseminated or published;
- (d) a product advertisement that contains any information, in text or otherwise, that is inaccurate or inconsistent with the nature or risks of the capital markets products to which it relates;
- (e) a product advertisement that contains any exaggerated statement which is calculated to exploit an individual's lack of experience and knowledge;
- (f) a product advertisement that contains information which is inconsistent with any information provided by the issuer of the capital markets products (to which the product advertisement relates) to the person who disseminated or published the product advertisement, or caused the product advertisement to be disseminated or published;
- (g) a product advertisement that contains or refers to any graph, chart, formula or other device and represents directly or indirectly, that —
  - (i) the graph, chart, formula or device (as the case may be) can, in and of itself, be used to determine which capital markets products to buy or sell, or when to buy or sell capital markets products; or
  - (ii) the graph, chart, formula or device (as the case may be) will assist any person in deciding which capital markets products to buy or sell, or when to buy or sell capital markets products, but does not prominently disclose the limitations, and difficulties in respect of the use, of the graph, chart, formula or device (as the case may be);
- (h) a product advertisement that contains any statement to the effect that any report, analysis or other service will be furnished free or without charge, and such report, analysis or service is not in fact or will not in fact be furnished in its entirety without any condition or obligation.

FOURTH SCHEDULE — *continued*

2. For the purposes of regulation 46(4), each of the following product advertisements does not provide a fair and balanced view of the capital markets products to which it relates:

- (a) a product advertisement that contains a statement on any return of the principal sum invested in the capital markets products to which the product advertisement relates, or benefit of holding those capital markets products, but —
  - (i) does not provide an unbiased description of risks associated with the capital markets products; or
  - (ii) does not give a proportionate level of prominence to any warning, disclaimer or qualification which is disclosed in relation to that statement;
- (b) an advertisement that is in respect of any capital markets products that is structured with the objective of returning the full principal sum invested in the capital markets products to a holder of the capital markets products upon the maturity of the capital markets products, but where the return of the full principal sum invested in the capital markets products at maturity is not unconditionally guaranteed, and the product advertisement does not contain a statement which clearly highlights the fact that the return of the full principal sum invested in the capital markets products at maturity is not unconditionally guaranteed;
- (c) a product advertisement that contains a representation that the return of all or a part of the principal sum invested in the capital markets products to which the product advertisement relates, or that the rate of return on the capital markets products is guaranteed, but —
  - (i) does not state the name of the guarantor; or
  - (ii) does not contain a statement that clearly highlights that while there is a guarantor who guarantees the return of all or a part of the principal sum invested in the capital markets products, or the rate of return on the capital markets products, there is no assurance that the guarantor will be able to fulfil its obligations under such guarantee;
- (d) a product advertisement that contains historical information on the capital markets products to which the product advertisement relates, but does not contain a statement that the information presented is historical information and that the past performance of the capital markets products is not indicative of its future performance;

FOURTH SCHEDULE — *continued*

- (e) a product advertisement that gives the impression that an investor can profit from investing in the capital markets products without any risk;
  - (f) a product advertisement that suggests that the nature of the capital markets products is, or is comparable to, a deposit;
  - (g) an advertisement that is in respect of any capital markets products of which the return of the principal sum invested in the capital markets products or the rate of return on the capital markets products is not guaranteed, but suggests that any of the following risks is low or nil:
    - (i) the risk of the holder of the capital markets products losing the holder's principal sum invested;
    - (ii) the risk of the holder of the capital markets products not achieving the stated, targeted or expected rate of return of the holder's principal sum invested.
3. For the purposes of regulation 46(5), each of the following product advertisements does not present information in a clear manner:
- (a) a product advertisement that presents information (including information in footnotes) in a manner that is not easily understood by —
    - (i) in a case where the product advertisement states the class of persons for whom the product advertisement is intended, a reasonable person belonging to that class of persons; and
    - (ii) in any other case, a reasonable person who may rely on the product advertisement;
  - (b) a product advertisement that contains any jargon or technical term, but does not define or explain such jargon or term in a manner that is easily understood by —
    - (i) in a case where the product advertisement states the class of persons for whom the product advertisement is intended, a reasonable person belonging to that class of persons; and
    - (ii) in any other case, a reasonable person who may rely on the product advertisement.
4. For the purposes of regulation 46(6), each of the following product advertisements is not clearly legible:
- (a) a product advertisement that appears in any document in written or printed form, including any newspaper, periodical, magazine or letter, which —

FOURTH SCHEDULE — *continued*

- (i) presents information in a font size that is smaller than 10-point Times New Roman, or any other standard font type that is visually equivalent to that font size; or
  - (ii) presents information in any footnote in a font size that is smaller than —
    - (A) where the font size of the word or statement to which the footnote relates is or is smaller than 20-point Times New Roman or any other standard font type that is visually equivalent to that font size — 10-point Times New Roman or any other standard font type that is visually equivalent to that font size;
    - (B) where the font size of the word or statement to which the footnote relates is larger than 20-point Times New Roman or any other standard font type that is visually equivalent to that font size but smaller than 29-point Times New Roman or any other standard font type that is visually equivalent to that font size — half the font size of that word or statement; or
    - (C) where the font size of the word or statement to which the footnote relates is or is larger than 29-point Times New Roman or any other standard font type that is visually equivalent to that font size — 14-point Times New Roman or any other standard font type that is visually equivalent to that font size;
- (b) a product advertisement that appears in a form, other than a document mentioned in sub-paragraph (a), which presents information in any footnote in a font size that is smaller than half the font size of the word or statement to which the footnote relates.

5. In this Schedule, unless the context otherwise requires —

“bank” means a bank in Singapore or a merchant bank;

“bank in Singapore” has the same meaning as in section 2(1) of the Banking Act (Cap. 19);

“deposit” means —

(a) where the deposit is accepted by a bank, a deposit as defined in section 4B(4) of the Banking Act; or

(b) where the deposit is accepted by a finance company, a deposit as defined in section 2 of the Finance Companies Act (Cap. 108);

FOURTH SCHEDULE — *continued*

“finance company” has the same meaning as in section 2 of the Finance Companies Act;

“merchant bank” means a merchant bank that is approved as a financial institution under section 28 of the Monetary Authority of Singapore Act (Cap. 186).

*[S 381/2018 wef 09/07/2018]*

*[G. N. Nos. S 457/2002; S 543/2003]*

LEGISLATIVE HISTORY  
SECURITIES AND FUTURES (LICENSING AND CONDUCT OF  
BUSINESS) REGULATIONS  
(CHAPTER 289, RG 10)

This Legislative History is provided for the convenience of users of the Securities and Futures (Licensing and Conduct of Business) Regulations. It is not part of these Regulations.

**1. G. N. No. S 457/2002 — Securities and Futures (Licensing and Conduct of Business) Regulations 2002**

Dates of commencement : 1 October 2002  
1 April 2003

**2. G. N. No. S 543/2003 — Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2003**

Date of commencement : 22 December 2003

**3. 2004 Revised Edition — Securities and Futures (Licensing and Conduct of Business) Regulations**

Date of operation : 29 February 2004

**4. G. N. No. S 373/2005 — Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2005**

(G.N. No. S 404/2005 — Corrigendum)

Date of commencement : 1 July 2005

**5. G. N. No. S 275/2008 — Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2008**

Date of commencement : 28 May 2008

**6. G. N. No. S 374/2008 — Securities and Futures (Licensing and Conduct of Business) (Amendment No. 2) Regulations 2008**

Date of commencement : 1 August 2008

**7. G.N. No. S 709/2010 — Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2010**

Date of commencement : 26 November 2010

**8. G.N. No. S 418/2011 — Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2011**

Date of commencement : 31 August 2011

- 9. G.N. No. S 18/2012 — Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2012**  
Date of commencement : 17 January 2012
- 10. G.N. No. S 385/2012 — Securities and Futures (Licensing and Conduct of Business) (Amendment No. 2) Regulations 2012**  
Date of commencement : 7 August 2012
- 11. G.N. No. S 503/2012 — Securities and Futures (Licensing and Conduct of Business) (Amendment No. 3) Regulations 2012**  
Date of commencement : 19 November 2012
- 12. G.N. No. S 170/2013 — Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2013**  
Dates of commencement : 28 March 2013  
28 March 2014
- 13. G.N. No. S 385/2012 — Securities and Futures (Licensing and Conduct of Business) (Amendment No. 2) Regulations 2012**  
Date of commencement : 1 April 2013
- 14. G.N. No. S 171/2013 — Securities and Futures (Licensing and Conduct of Business) (Amendment No. 2) Regulations 2013**  
Date of commencement : 2 April 2013
- 15. G.N. No. S 523/2016 — Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2016**  
Date of commencement : 1 November 2016
- 16. G.N. No. S 587/2017 — Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2017**  
Date of commencement : 20 October 2017
- 17. G.N. No. S 381/2018 — Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2018**  
Date of commencement : 9 July 2018