

**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]

“approved global trading company” means a global trading company approved under section 43P of the Income Tax Act (Cap. 134);

[S 667/2018 wef 08/10/2018]

“associated corporation”, in relation to a corporation (*A*), means —

- (a) any corporation (*B*) in which *A* or *A*’s subsidiary has, or *A* and *A*’s subsidiary together have, an interest in shares entitling the beneficial owners of those shares the right to cast, whether by proxy or in person, not less than 20% but not more than 50% of the total votes able to be cast at a general meeting of *B*; or
- (b) any corporation (*C*), other than a subsidiary of *A* or a corporation which is an associated company of *A* by virtue of paragraph (a), the policies of which *A* or *A*’s subsidiary is, or *A* together with *A*’s subsidiary, are able to control or influence materially;

[S 667/2018 wef 08/10/2018]

“board” means the board of directors;

[S 667/2018 wef 08/10/2018]

“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;

“booked in Singapore”, in relation to an OTC derivatives contract, means the entry of the OTC derivatives contract on the balance-sheet or the profit and loss accounts of a person who is a party to the OTC derivatives contract, where —

- (a) that person’s place of business is in Singapore; and
- (b) the balance-sheet or the profit and loss accounts relate to that person’s business in Singapore;

[S 667/2018 wef 08/10/2018]

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

“executive director” means a director who is concurrently an executive officer;

[S 667/2018 wef 08/10/2018]

“foreign exchange OTC derivatives contract” or “FX OTC derivatives contract” means an OTC derivatives contract —

- (a) which is entered into by one party providing to the other party money, securities, property or other collateral which represents only a part of the value of the contract; and
- (b) the value of which is determined by reference to, is derived from, or varies by reference to —
 - (i) the value or amount of any currency or currency index; or
 - (ii) fluctuations in the values or amounts of any currency or currency index;

[S 667/2018 wef 08/10/2018]

“Government securities” means specified products 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);

[S 667/2018 wef 08/10/2018]

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

“immediate family”, in relation to an individual, means the individual’s spouse, son, adopted son, stepson, daughter, adopted daughter, stepdaughter, father, stepfather, mother, stepmother, brother, stepbrother, sister or stepsister;

[S 667/2018 wef 08/10/2018]

“Internet-based trading platform” means an order management system for the purpose of dealing in capital markets products 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]

[S 667/2018 wef 08/10/2018]

“non-executive director” means a director who is not an executive director;

[S 667/2018 wef 08/10/2018]

“over-the-counter derivatives contract” or “OTC derivatives contract” means a derivatives contract that is not an exchange-traded derivatives contract;

[S 667/2018 wef 08/10/2018]

[Deleted by S 667/2018 wef 08/10/2018]

“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]

“real estate investment trust” or “REIT” means a collective investment scheme —

- (a) that is authorised under section 286 of the Act or recognised under section 287 of the Act;
- (b) that is a trust;
- (c) that invests primarily in real estate and real estate-related assets specified by the Authority in the Code on Collective Investment Schemes; and
- (d) all or any of the units of which are listed for quotation on an approved exchange;

[S 667/2018 wef 08/10/2018]

“retail customer” means a customer other than an accredited investor, expert investor or institutional investor;

[S 667/2018 wef 08/10/2018]

“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 listed specified products

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 capital markets products that are listed specified products;

[S 667/2018 wef 08/10/2018]

- (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 a register of his interests in listed specified products;

[S 667/2018 wef 08/10/2018]

- (ii) enter into the register, within 7 days after the date that he acquires any interest in listed specified products, particulars of the listed specified products in which he has an interest and particulars of his interests in those listed specified products;

[S 667/2018 wef 08/10/2018]

- (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 listed specified products 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.

[S 667/2018 wef 08/10/2018]

- (3) A relevant person shall, upon the Authority's request —
- (a) produce for the Authority's inspection the register of his interests in listed specified products; and

[S 667/2018 wef 08/10/2018]

- (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 listed specified products disclosed in the register.

[S 667/2018 wef 08/10/2018]

(5) In this regulation and regulation 4A, "listed specified products" means specified products that are listed for quotation, or quoted on an organised market that is operated by an approved exchange or a recognised market operator.

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

[S 667/2018 wef 08/10/2018]

Place at which register is kept

4A.—(1) A relevant person shall keep the register of his interests in listed specified products 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.

[S 667/2018 wef 08/10/2018]

(2) The register of interests in listed specified products 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.

[S 667/2018 wef 08/10/2018]

- (3) *[Deleted by S 667/2018 wef 08/10/2018]*
- (4) *[Deleted by S 667/2018 wef 08/10/2018]*
- (5) *[Deleted by S 667/2018 wef 08/10/2018]*

(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 listed specified products and the places at which copies of those registers are kept in Singapore under regulation 4(1)(iv).

[S 667/2018 wef 08/10/2018]

(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.

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) *[Deleted by S 667/2018 wef 08/10/2018]*

(5) *[Deleted by S 667/2018 wef 08/10/2018]*

(6) *[Deleted by S 667/2018 wef 08/10/2018]*

(7) *[Deleted by S 667/2018 wef 08/10/2018]*

(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.

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.

(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.

(7) Where the holder of a capital markets services licence licensed to carry on business in dealing in capital markets products is granted the licence subject to a condition or restriction restricting the holder to one or more types of capital markets products in respect of which the holder may carry on that business, the amount of the licence fee payable to the Authority is the sum of the fees specified in the Third Schedule for the types of capital markets products in respect of which the holder may carry on that business.

[S 667/2018 wef 08/10/2018]

6A. *[Deleted by S 667/2018 wef 08/10/2018]*

Deposit to be lodged in respect of capital markets services licence to deal in capital markets products that are specified products

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

[S 667/2018 wef 08/10/2018]

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

(a) that is a member of an approved exchange; or

[S 667/2018 wef 08/10/2018]

- (b) that is a person who deals in capital markets products that are specified products only with accredited investors, expert investors or institutional investors;

[S 667/2018 wef 08/10/2018]

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

(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.

(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, expert investor or institutional 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 capital markets products that are specified products, 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.

[S 667/2018 wef 08/10/2018]

(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 capital markets products that are specified products, which has lodged with the Authority a deposit under regulation 7, ceases to carry on business in dealing in capital markets products that are specified products;

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(b) a capital markets services licence to deal in capital markets products that are specified products has lapsed or has been revoked by the Authority; or

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(c) the holder of a capital markets services licence to deal in capital markets products that are specified products is admitted as a member of an approved 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 capital markets products that are specified products are fully liquidated or provided for.

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(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.

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) starting on the date that the individual's name was entered in the public register of representatives as an appointed representative, the appointed representative has not commenced to act as a representative in at least one of the regulated activities that he was appointed to carry out as a representative; or

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- (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.

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 may 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.

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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.

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.

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.

(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;
- (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;
- (b) whether the appointee or director is an undischarged bankrupt in Singapore or elsewhere;
- (c) whether execution against the appointee or director in respect of a judgment debt has been returned unsatisfied in whole or in part;

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

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 approved exchange or approved clearing house;
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- (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.

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.

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 capital markets products that are permitted to be traded on an approved exchange or a recognised market operator, 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

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- (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 capital markets products 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).

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(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) capital markets products which are not listed for quotation or quoted on an organised market;

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- (b) interests in a closed-end fund or an arrangement mentioned in paragraph (aa) of the definition of “closed-end fund” in section 2(1) of the Act, where —

- (i) the closed-end fund or arrangement is to be used for private equity or venture capital investments; and

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- (ii) interests in the closed-end fund or arrangement 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.

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(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.

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.

Composition of board of holder of capital markets services licence for real estate investment trust management

13D.—(1) A holder of a capital markets services licence for real estate investment trust management must not have as the chairman of its board of directors —

- (a) a person who is an executive director of the holder; or
- (b) a person who is a member of the immediate family of the chief executive officer of the holder.

(2) A holder of a capital markets services licence for real estate investment trust management must have the requisite number of independent directors.

(3) For the purposes of paragraph (2), the requisite number of independent directors is —

- (a) where the participants of the REIT that is managed or operated by the holder do not have the right to vote on the appointment of directors to the holder's board — at least half of the total number of directors of the holder; and
- (b) where the participants of the REIT that is managed or operated by the holder have the right to vote on the appointment of directors to the holder's board — at least one third of the total number of directors of the holder.

(4) A holder of a capital markets services licence for real estate investment trust management must notify the Authority if —

- (a) a person mentioned in paragraph (1)(a) or (b) has been appointed as the chairman of the holder's board;
- (b) any of its independent directors had ceased to be an independent director; or
- (c) the holder had ceased to have the requisite number of independent directors.

(5) A notification under paragraph (4) must —

- (a) be made within 14 days after the holder becomes aware of the fact mentioned in sub-paragraph (a), (b) or (c) (as the case may be) of that paragraph;
- (b) in the case of a notification mentioned in paragraph (4)(b), state the reason why the independent director had ceased to be an independent director; and
- (c) in the case of a notification mentioned in paragraph (4)(c), state —
 - (i) the date on which the holder had ceased to have the requisite number of independent directors;

- (ii) whether the holder had ceased to have the requisite number of independent directors due to any of its independent directors ceasing to satisfy any condition mentioned in paragraph (7)(b)(i), (ii), (iii) or (iv), and if so, whether the holder knew or could have reasonably known that the independent director concerned would cease to satisfy the condition —
 - (A) before the start of the specified period, where the date on which the independent director concerned ceased to satisfy the condition (called in this regulation the date of cessation) falls within the specified period; or
 - (B) on the date of the annual general meeting of the holder immediately preceding the date of cessation, where the date of cessation falls within a period other than the specified period.
- (6) The Authority may —
 - (a) upon being notified by a holder of a capital markets services licence for real estate investment trust management under paragraph (4)(a), issue written directions under section 101(1) of the Act to direct the holder to take such steps as may be necessary to ensure that paragraph (1) is complied with; or
 - (b) upon being notified by a holder of a capital markets services licence for real estate investment trust management under paragraph (4)(c), issue written directions under section 101(1) of the Act to direct the holder to take such steps as may be necessary to rectify the composition of its board to satisfy paragraph (2) within such time as may be specified by the Authority.
- (7) In this regulation —
 - (a) “specified period” means the period starting on the date immediately after the date on which the director was appointed to the holder’s board and ending on the date

immediately before the date of the first annual general meeting of the holder that is held after the director's appointment; and

- (b) a director of a holder of a capital markets services licence for REIT management is an independent director if the director —
- (i) is independent from the management of the holder and the REIT that is managed or operated by the holder;
 - (ii) is independent from any business relationship with the holder and the REIT that is managed or operated by the holder;
 - (iii) is independent from every substantial shareholder of the holder, and every substantial unitholder of the REIT;
 - (iv) is not a substantial shareholder of the holder, or a substantial unitholder of the REIT that is managed or operated by the holder; and
 - (v) has not served as a director of the holder for a continuous period of 9 years or longer.

(8) Despite paragraph (7)(b), a director of the holder who does not satisfy any condition mentioned in paragraph (7)(b)(i), (ii) or (iii) may nevertheless be treated as an independent director of the holder if the board of the holder is satisfied that the director is able to act in the best interests of all the unitholders of the REIT that is managed or operated by the holder, as a whole.

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Disclosure of director's independence in annual reports of REIT

13E. A holder of a capital markets services licence for real estate investment trust management must ensure that —

- (a) at the end of each financial year of that REIT, its board ascertains for the financial year that has ended —

- (i) whether each director had during that financial year been independent from the management of the holder and the REIT that is managed or operated by the holder;
 - (ii) whether each director had during that financial year been independent from any business relationship with the holder and the REIT that is managed or operated by the holder;
 - (iii) whether each director had during that financial year been independent from every substantial shareholder of the holder, and every substantial unitholder of the REIT that is managed or operated by the holder;
 - (iv) whether each director had during that financial year been a substantial shareholder of the holder, or a substantial unitholder of the REIT that is managed or operated by the holder;
 - (v) whether each director had, as at the last day of the financial year, served as a director of the holder for a continuous period of 9 years or longer; and
 - (vi) whether, in the board's opinion, any director who had been treated as an independent director of the holder under regulation 13D(8) had ceased during that financial year to be able to act in the best interests of all the unitholders of the REIT that was managed or operated by the holder as a whole;
- (b) the annual report of the REIT that is issued for the financial year under the listing rules of the approved exchange on which all or any of the units of the REIT are listed —
- (i) contains the following disclosures by the board:
 - (A) whether each director had during that financial year been independent from the management of the holder and the REIT that is managed or operated by the holder, and if not, the reasons for the director not being so independent;

- (B) whether each director had during that financial year been independent from any business relationship with the holder and the REIT that is managed or operated by the holder, and if not, the reasons for the director not being so independent;
 - (C) whether each director had during that financial year been independent from every substantial shareholder of the holder, and every substantial unitholder of the REIT that is managed or operated by the holder, and if not, the reasons for the director not being so independent;
 - (D) whether each director had during that financial year been a substantial shareholder of the holder, or a substantial unitholder of the REIT that is managed or operated by the holder;
 - (E) whether any director had as at the last day of the financial year, served as a director of the holder for a continuous period of 9 years or longer; and
 - (F) whether the board is satisfied that, as at the last day of the financial year, any director was able to act in the best interests of all the unitholders of the REIT that was managed or operated by the holder as a whole despite not being independent as mentioned in sub-paragraph (A), (B) or (C); and
- (ii) contains a statement, in respect of each director in relation to whom a disclosure under sub-paragraph (i)(F) is made, that as at the last day of the financial year, the director was able to act in the best interests of all the unitholders of the REIT that was managed or operated by the holder as a whole.

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Independence from management of holder and REIT managed or operated by holder

13F.—(1) For the purposes of regulations 13D(7)(b)(i) and 13E(a)(i) and (b)(i)(A), a director of a holder of a capital markets services licence for real estate investment trust management is independent from the management of the holder and the REIT that is managed or operated by the holder if the director does not have a management relationship with any of the following persons:

- (a) the holder of the capital markets services licence;
- (b) a related corporation of the holder;
- (c) the trustee of the REIT that is managed or operated by the holder.

(2) For the purposes of paragraph (1)(a), a director has a management relationship with the holder if —

- (a) the director —
 - (i) is currently employed by the holder; or
 - (ii) has been employed by the holder at any time during the current financial year of the holder, or any of the 3 financial years of the holder that immediately precedes that financial year;
- (b) the director is accustomed or under an obligation (whether formal or informal) to act in accordance with the directions, instructions or wishes of the holder; or
- (c) any member of the director's immediate family —
 - (i) is currently employed by the holder as an executive officer of the holder; or
 - (ii) has been employed by the holder as an executive officer of the holder at any time during the current financial year of the holder, or any of the 3 financial years of the holder that immediately precedes that financial year.

(3) For the purposes of paragraph (1)(b), a director has a management relationship with a related corporation of the holder (called in this paragraph the related corporation) if —

(a) the director —

- (i) is currently employed by the related corporation; or
- (ii) has been employed by the related corporation at any time during the current financial year of the related corporation, or any of the 3 financial years of the related corporation that immediately precedes that financial year;

(b) the director is accustomed or under an obligation (whether formal or informal) to act in accordance with the directions, instructions or wishes of the related corporation; or

(c) any member of the director's immediate family —

- (i) is currently employed by a related corporation as an executive officer of the related corporation; or
- (ii) has been employed by a related corporation as an executive officer of the related corporation at any time during the current financial year of the related corporation, or any of the 3 financial years of the related corporation that immediately precedes that financial year.

(4) For the purposes of paragraph (1)(c), a director has a management relationship with the trustee of the REIT that is managed or operated by the holder (called in this paragraph the trustee) if —

(a) the director —

- (i) is currently employed by the trustee; or
- (ii) has been employed by the trustee at any time during the current financial year of the trustee, or any of the 3 financial years of the trustee that immediately precedes that financial year;

- (b) the director is accustomed or under an obligation (whether formal or informal) to act in accordance with the directions, instructions or wishes of the trustee; or
- (c) any member of the director's immediate family —
 - (i) is currently employed by the trustee as an executive officer of the trustee; or
 - (ii) has been employed by the trustee as an executive officer of the trustee at any time during the current financial year of the trustee, or any of the 3 financial years of the trustee that immediately precedes that financial year.

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Independence from business relationship with holder and REIT managed or operated by holder

13G.—(1) For the purposes of regulations 13D(7)(b)(ii) and 13E(a)(ii) and (b)(i)(B), a director of a holder of a capital markets services licence for real estate investment trust management is independent from any business relationship with the holder and the REIT that is managed or operated by the holder if the director does not have a business relationship with any of the following persons (each called in this regulation a relevant person):

- (a) the holder of the capital markets services licence;
- (b) a related corporation of the holder;
- (c) the trustee of the REIT that is managed or operated by the holder;
- (d) an officer of a person mentioned in sub-paragraph (a), (b) or (c).

(2) For the purpose of paragraph (1), a director has a business relationship with a relevant person if —

- (a) any of the following persons has in the current or immediately preceding financial year of the holder, made any payment to, or received any payment from, the relevant person:

- (i) a corporation that carries on business for purposes of profit of which the director is a substantial shareholder, a director or an executive officer;
 - (ii) a partnership that carries on business for purposes of profit of which the director is a partner;
 - (iii) the director in his capacity as a sole proprietor of a business carried on for purposes of profit; or
- (b) the director is receiving or has received any payment from the relevant person at any time during the current or immediately preceding financial year of the holder, other than —
- (i) in the case where the relevant person is the holder of the capital markets services licence —
 - (A) fees received for the director's service as a director of the holder; and
 - (B) salary received for the director's service as an employee of the holder; or
 - (ii) in any other case, salary received for the director's service as an employee of the relevant person.

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Independence from substantial shareholder of holder and substantial unitholder of REIT

13H.—(1) For the purposes of regulations 13D(7)(b)(iii) and 13E(a)(iii) and (b)(i)(C), a director of a holder of a capital markets services licence for real estate investment trust management is independent from every substantial shareholder of the holder, and every substantial unitholder of the REIT that is managed or operated by the holder if the director is not connected to any of the following persons (each called in this regulation a relevant person):

- (a) a substantial shareholder of the holder;
- (b) a substantial unitholder of the REIT.

(2) For the purposes of paragraph (1), a director is connected to a relevant person if —

- (a) where the relevant person is an individual, the director is —
- (i) a member of the immediate family of the relevant person;
 - (ii) employed by the relevant person;
 - (iii) a partner of a firm or a limited liability partnership of which the relevant person is also a partner; or
 - (iv) accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the relevant person; and
- (b) where the relevant person is a corporation, the director is —
- (i) employed by the relevant person;
 - (ii) employed by a related corporation or an associated corporation of the relevant person;
 - (iii) a director of the relevant person;
 - (iv) a director of a related corporation or an associated corporation of the relevant person;
 - (v) a partner of a firm or a limited liability partnership of which the relevant person is also a partner; or
 - (vi) accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the relevant person.

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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, on or after 8 October 2018, the person commences business in —
 - (i) any regulated activity; or
 - (ii) the regulated activity of dealing in capital markets products in respect of any additional type of capital markets products,

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

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- (aa) where, immediately before 8 October 2018, the person was exempted under section 99(1)(a) or (b) of the Act from holding a capital markets services licence and was carrying on business in dealing in specified contracts, a notice of

that fact in Form 26 not later than 8 October 2020 or such later date as the Authority may allow in any particular case;
or

[S 667/2018 wef 08/10/2018]

(ab) where, immediately before 8 October 2018, the person was exempted under section 99(1)(c) of the Act from holding a capital markets services licence and was carrying on business in dealing in specified OTC derivatives contracts, a notice of that fact in Form 26 not later than 8 October 2020 or such later date as the Authority may allow in any particular case;

[S 667/2018 wef 08/10/2018]

(b) where the person ceases business in any or all of the regulated activities, or ceases business in dealing in any capital markets product, for which notice has been given in —

- (i) Form 26 under sub-paragraph (a), (aa) or (ab);
- (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;

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

- (i) Form 26 under sub-paragraph (a), (aa) or (ab);

[S 667/2018 wef 08/10/2018]

- (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;

[S 667/2018 wef 08/10/2018]

- (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 667/2018 wef 08/10/2018]

- (e) where the person intends to appoint an appointed representative in respect of a type of capital markets products in addition to that indicated against the appointed representative's name in the public register of representatives, a notice of such intention in Form 6; and

[S 667/2018 wef 08/10/2018]

- (f) where an appointed representative, temporary representative or provisional representative of the person ceases to act as a representative in respect of a type of capital markets products that is indicated against the representative's name in the public register of representatives, a notice of such cessation in Form 8 no later than the next business day after the date of such cessation.

[S 667/2018 wef 08/10/2018]

(4A) A person must not act as a representative of a person who is exempted from holding a capital markets services licence under section 99(1)(a), (b), (c) or (d) of the Act in respect of any type of capital markets products unless the firstmentioned person is indicated in the public register of representatives as a representative of the second-mentioned person in respect of that type of capital markets products.

[S 667/2018 wef 08/10/2018]

(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 specified products 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 667/2018 wef 08/10/2018]

(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.

(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.

(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 specified products acquired by the arrangement;

[S 667/2018 wef 08/10/2018]

“specified contract” and “specified OTC derivatives contract” have the meanings given to them in regulation 56;

[S 667/2018 wef 08/10/2018]

“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 specified products that are not listed for quotation or quoted on an approved exchange or an overseas exchange —

(a) under which —

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

[S 667/2018 wef 08/10/2018]

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

[S 667/2018 wef 08/10/2018]

- (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 specified products 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 specified products allotted by that entity;

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(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 specified products or any part of the portfolio of specified products 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 specified products or any part of the portfolio of specified products; or
- (ii) to receive sums paid out of such profits, income, or other payments or returns;

[S 667/2018 wef 08/10/2018]

(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.

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, a corporation that is exempted from holding a capital markets services licence under paragraph 3(1)(d) or 3A(1)(d) of the Second Schedule, 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,

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

[S 667/2018 wef 08/10/2018]

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 any capital markets products;

[S 667/2018 wef 08/10/2018]

(b) money received from, or on account of, the customer for the holding of any capital markets products, or the maintenance of a trading account for any capital markets products by the customer;

[S 667/2018 wef 08/10/2018]

(c) *[Deleted by S 667/2018 wef 08/10/2018]*

(d) money received from, or on account of, the customer, where the holder provides product financing to such customer;

[S 667/2018 wef 08/10/2018]

(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;

[S 667/2018 wef 08/10/2018]

(iv) money which is to be paid to any other person entitled to the money; and

[S 667/2018 wef 08/10/2018]

(v) money received from, or on account of, a customer who is an institutional investor, in connection with any OTC derivatives contract which —

(A) is entered into by the holder with the customer;

- (B) is not cleared or settled by a clearing facility; and
- (C) is booked in Singapore.

[S 667/2018 wef 08/10/2018]

(3) In this Part —

“customer’s assets”, in relation to the holder of a capital markets services licence, means securities and assets, including Government securities and certificates of deposits, that are beneficially owned by a customer of the holder, but does not include —

- (a) money; and
- (b) securities and assets that are received from, or on account of, a customer who is an institutional investor in connection with any OTC derivatives contract which —
 - (i) is entered into by the holder with the customer;
 - (ii) is not cleared or settled by a clearing facility; and
 - (iii) is booked in Singapore;

“trust account” means an account opened by a holder of a capital markets services licence that —

- (a) is designated as a trust account, a customer’s account or a customers’ account; and
- (b) is distinguished and maintained separately from any other account in which the holder deposits its own moneys.

[S 667/2018 wef 08/10/2018]

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) must, where the holder is a member of an approved clearing house or a recognised clearing house —

(i) deposit all moneys received on account of a retail customer in respect of any OTC derivatives contract entered into by the holder on behalf of, or with, the retail customer in a trust account;

(ii) deposit all moneys received on account of a retail customer in respect of any capital markets products other than an OTC derivatives contract entered into by the holder on behalf of, or with, the retail customer in —

(A) a trust account that is maintained in accordance with regulation 17; or

(B) any other account —

(AA) into which the retail customer directs that the moneys be deposited;

(BB) to which the retail customer has legal and beneficial title; and

(CC) which is maintained with a specified financial institution; and

(iii) deposit all moneys received on account of a customer who is not a retail customer in —

(A) a trust account that is maintained in accordance with regulation 17; or

(B) any other account into which that customer directs that the moneys be deposited;

[S 667/2018 wef 08/10/2018]

(ba) must, where the holder is not a member of an approved clearing house or a recognised clearing house —

(i) deposit all moneys received on account of a retail customer in —

(A) a trust account that is maintained in accordance with regulation 17; or

(B) any other account —

(AA) into which the retail customer directs that the moneys be deposited;

(BB) to which the retail customer has legal and beneficial title; and

(CC) which is maintained with a specified financial institution; and

(ii) deposit all moneys received on account of a customer who is not a retail customer in —

(A) a trust account that is maintained in accordance with regulation 17; or

(B) any other account into which that customer directs that the moneys be deposited; and

[S 667/2018 wef 08/10/2018]

(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 must, no later than the business day immediately following the day on which the holder receives money received on account of its customer or is notified of the receipt of such money (whichever is later) —

(a) deposit the money in a trust account or other account in accordance with paragraph (1)(b) or (ba), as the case may be;

(b) pay the money to the customer;

(c) deposit the money in accordance with regulation 19; or

(d) invest the money in accordance with regulation 20.

[S 667/2018 wef 08/10/2018]

(3) Moneys received by a holder who is a member of an approved clearing house or a recognised clearing house on account of the

holder's customers must not be commingled or deposited in the same trust account, except that —

- (a) moneys received by the holder on account of retail customers in respect of OTC derivatives contracts entered into by the holder on behalf of, or with, retail customers may be commingled or deposited in the same trust account; and
- (b) moneys received by the holder on account of retail customers in respect of any capital markets products other than an OTC derivatives contracts entered into by the holder on behalf of, or with, retail customers, and all moneys received by the holder on account of customers other than retail customers, may be commingled or deposited in the same trust account.

[S 667/2018 wef 08/10/2018]

(4) Moneys received by a holder who is not a member of an approved clearing house or a recognised clearing house on account of the holder's customers may be commingled or deposited in the same trust account.

[S 667/2018 wef 08/10/2018]

(5) Where a holder who is a member of an approved clearing house or a recognised clearing house accepts from a customer any moneys deposited or paid for or in relation to an OTC derivatives contract, the holder must —

- (a) inform the customer that the customer may request the holder to separate the books for any money deposited or paid for or in relation to the contracts of the customer from the books for moneys deposited or paid for or in relation to the contracts of any other customer or customers of the holder, subject to additional costs that may be imposed by the holder on the customer;
- (b) inform the customer of the additional costs that the holder will impose on the customer if the customer makes the request mentioned in sub-paragraph (a); and

(c) inform the customer of —

- (i) the consequences of the holder becoming insolvent if the customer makes the request mentioned in sub-paragraph (a);
- (ii) the consequences of the holder becoming insolvent if the customer does not make the request mentioned in sub-paragraph (a); and
- (iii) the differences between the consequences mentioned in sub-paragraphs (i) and (ii).

[S 667/2018 wef 08/10/2018]

(6) In this regulation —

“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 trust account, the next business day of the custodian;

“specified financial institution” means any of the following:

- (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 corporation incorporated, formed or established outside Singapore, which is licensed, registered, approved or otherwise regulated as a bank under the law of the foreign country or territory in which it is incorporated, formed or established.

[S 667/2018 wef 08/10/2018]

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 (other than moneys received from, or on account of, its retail customer in respect of OTC derivatives contracts that are entered into by the holder with the retail 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.

[S 667/2018 wef 08/10/2018]

(3) A holder of a capital markets services licence must, before opening a trust account for the purposes of depositing moneys received on account of its customers, assess, and satisfy itself of, the suitability of the financial institution or custodian with which the trust account is to be opened.

[S 667/2018 wef 08/10/2018]

(4) A holder of a capital markets services licence must periodically assess, and satisfy itself of, the suitability of any financial institution or custodian that maintains the holder's trust accounts in which moneys received on account of the holder's customers are deposited.

[S 667/2018 wef 08/10/2018]

(5) The holder must keep, for the period specified in section 102(3) of the Act, records of the grounds on which the holder satisfied itself

of the financial institution's or custodian's suitability at each assessment under paragraph (3) or (4).

[S 667/2018 wef 08/10/2018]

(6) Paragraph (3) does not apply to trust accounts opened by the holder before 8 October 2018.

[S 667/2018 wef 08/10/2018]

Notification and acknowledgment from specified financial institutions

18.—(1) 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.

[S 667/2018 wef 08/10/2018]

(2) Where the holder of a capital markets services licence opens a trust account with a custodian outside Singapore in accordance with regulation 17(2), the holder must, before depositing moneys received on account of its customer in the trust account, give written notice to the custodian and obtain an acknowledgment from the custodian that —

- (a) all moneys deposited in the account are held by the holder for its customer and the custodian cannot exercise any right of set off against the moneys for any debt owed by the holder to the custodian; and

- (b) the account is designated as a trust account, a customer's account or a customers' account, and is distinguished and maintained separately from any other account in which the holder deposits its own moneys.

[S 667/2018 wef 08/10/2018]

Disclosure to customers in relation to moneys received on account of customers

18A. The holder of a capital markets services licence must, before depositing moneys received on account of a retail customer in a trust account mentioned in regulation 17, disclose in writing to the retail customer —

- (a) that the retail customer's moneys will be held on behalf of the holder by, as the case may be —
- (i) a bank licensed under the Banking Act;
 - (ii) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act;
 - (iii) a finance company licensed under the Finance Companies Act; or
 - (iv) a custodian outside Singapore which is licensed, registered or authorised to conduct banking business in the country or territory where the account is maintained;
- (b) that the holder may withdraw the retail customer's moneys from the trust account and deposit the moneys with an approved clearing house, a recognised clearing house, a member of a clearing facility or a member of an organised market for any of the purposes specified in regulation 19;
- (c) whether or not the retail customer's moneys will be deposited in a trust account together with, and commingled with, the moneys of the holder's other customers;
- (d) if the retail customer's moneys will be deposited in a trust account together with, and commingled with, the moneys of the holder's other customers, the risks of such commingling;

- (e) the consequences for the retail customer's moneys if the financial institution or custodian with which the trust account is maintained becomes insolvent;
- (f) the consequences for the retail customer's moneys if the money is deposited with an approved clearing house, a recognised clearing house, a member of a clearing facility or a member of an organised market, and the approved clearing house, recognised clearing house, member of a clearing facility or member of an organised market becomes insolvent; and
- (g) if the trust account will be maintained with a custodian outside Singapore in accordance with regulation 17(2) —
 - (i) the fact that the laws and practices relating to trust accounts in the jurisdiction under which the custodian is licensed, registered or authorised may be different from the laws and practices in Singapore relating to trust accounts; and
 - (ii) the fact that any such differences may affect the ability of the customer to recover the funds deposited in the trust account.

[S 667/2018 wef 08/10/2018]

Customer's money deposited with approved clearing house, etc.

19. Despite regulations 16 and 17, the holder of a capital markets services licence to deal in capital markets products may deposit moneys received on account of its customer, other than moneys received on account of a retail customer in respect of OTC derivatives contracts, with an approved clearing house, a recognised clearing house, a member of an organised market or a member of a clearing facility —

- (a) for the purpose of entering into, facilitating the continued holding of a position in, or facilitating a transaction in, any capital markets products on behalf of the customer on the organised market;

- (b) for the purpose of the clearing or settlement of any capital markets products on the clearing facility for the customer; or
- (c) for any other purpose specified under the business rules and practices of the approved clearing house, recognised clearing house, organised market or clearing facility, as the case may be.

[S 667/2018 wef 08/10/2018]

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 an organised market on which the holder normally transacts its business; or

[S 667/2018 wef 08/10/2018]

- (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.

Moneys received from retail customer

20A. The holder of a capital markets services licence must not enter into any contract, arrangement or transaction, the purpose or effect of which is to transfer any right, interest, benefit or title in any moneys received from its retail customer to itself or any other person, unless —

- (a) the contract, arrangement or transaction is entered into in connection with lending of the retail customer's specified products; and
- (b) the holder complies with regulation 45(1), (3) and (4) in relation to the lending of the retail customer's specified products.

[S 667/2018 wef 08/10/2018]

Withdrawal of money from trust account

21.—(1) 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 capital markets products by the holder for the customer;

[S 667/2018 wef 08/10/2018]

- (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.

[S 667/2018 wef 08/10/2018]

(2) Despite paragraph (1)(d), the holder of a capital markets services licence must not withdraw any money from a retail customer's trust account for the purpose of making a payment to any other person or account to meet any obligation of the holder in relation to any transaction, arrangement or contract entered into by the holder for the benefit of the holder.

[S 667/2018 wef 08/10/2018]

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(1)(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.

[S 667/2018 wef 08/10/2018]

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 —

(i) in the case of a retail customer —

(A) in a custody account held on trust for the customer that is maintained in accordance with regulation 27; or

(B) in any other account —

(AA) into which the customer directs that the assets are to be deposited;

(BB) to which the customer has legal and beneficial title; and

(CC) which is maintained with a specified custodian; and

(ii) in the case of any other customer —

(A) in a custody account held on trust for the customer; or

(B) in any other account into which the customer directs that the assets be deposited;

[S 667/2018 wef 08/10/2018]

(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 must, no later than the business day immediately following the day on which the holder receives customer's assets or is notified of the receipt of such assets, whichever is later —

(a) deposit the assets in a custody account or other account in accordance with paragraph (1)(a);

(b) return the assets to the customer; or

(c) deposit the assets in accordance with regulation 30.

[S 667/2018 wef 08/10/2018]

(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.

(5) Where a holder who is a member of an approved clearing house or a recognised clearing house receives from a customer any assets deposited or paid for in relation to an OTC derivatives contract, the holder must —

- (a) inform the customer that the customer may request the holder to separate the books for any assets deposited or paid for or in relation to the contracts of the customer from the books for assets deposited or paid for or in relation to the contracts of any other customer or customers of the holder, subject to additional costs that may be imposed by the holder on the customer;
- (b) inform the customer of the additional costs that the holder will impose on the customer if the customer makes the request mentioned in sub-paragraph (a); and
- (c) inform the customer of —
 - (i) the consequences of the holder becoming insolvent if the customer makes the request mentioned in sub-paragraph (a);
 - (ii) the consequences of the holder becoming insolvent if the customer does not make the request mentioned in sub-paragraph (a); and
 - (iii) the differences between the consequences mentioned in sub-paragraphs (i) and (ii).

[S 667/2018 wef 08/10/2018]

- (6) In paragraph (1), “specified custodian” means —
- (a) a bank licensed under the Banking Act;
 - (b) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act;
 - (c) a finance company licensed under the Finance Companies Act;
 - (d) a depository agent within the meaning of section 81SF of the Act 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;
 - (f) any person licensed under the Act to provide custodial services; or
 - (g) 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.

[S 667/2018 wef 08/10/2018]

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 81SF of the Act for the custody of capital markets products listed for quotation or quoted on the Singapore Exchange

Securities Trading Limited or deposited with the Central Depository (Pte) Ltd;

[S 667/2018 wef 08/10/2018]

- (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.

[S 667/2018 wef 08/10/2018]

(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.

[S 667/2018 wef 08/10/2018]

(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.

Disclosure to customers in relation to assets received on account of customers

27A. A holder of a capital markets services licence must, before depositing assets received on account of a retail customer in a custody account mentioned in regulation 27, disclose in writing to the retail customer —

- (a) that the retail customer's assets will be held on behalf of the customer in accordance with regulation 27;
- (b) that the holder may withdraw the retail customer's assets from the custody account and deposit the assets with an approved clearing house, a recognised clearing house, a member of a clearing facility or a member of an organised market for any of the purposes specified in regulation 30;
- (c) whether or not the retail customer's assets will be deposited in a custody account with, and commingled with, the assets of the holder's other customers;

- (d) if the retail customer's assets will be deposited in a custody account together with, and commingled with, the assets of the holder's other customers, the risks of such commingling;
- (e) the consequences for the retail customer's assets if the custodian with which the custody account is maintained becomes insolvent; and
- (f) if the custody account will be maintained with a custodian outside Singapore in accordance with regulation 27(3) —
 - (i) the fact that the laws and practices relating to custody accounts in the jurisdiction under which the custodian is licensed, registered or authorised may be different from the laws and practices in Singapore relating to custody accounts; and
 - (ii) the fact that any such differences may affect the ability of the customer to recover the assets deposited in the custody account.

[S 667/2018 wef 08/10/2018]

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.—(1) The holder of a capital markets services licence which maintains its customer's assets in a custody account under regulation 27(1) or (3) must —

- (a) before opening the custody account, assess the custodian's suitability for the holder's customer or class of customers; and
- (b) periodically assess the custodian's suitability for as long as the custody account is maintained with that custodian.

(2) The holder must keep, for the period specified in section 102(3) of the Act, records of the grounds on which the holder satisfied itself of the custodian's suitability at each assessment under paragraph (1)(a) or (b).

[S 667/2018 wef 08/10/2018]

Customer's assets held with approved clearing house, etc.

30. Despite regulations 26 and 27, the holder of a capital markets services licence to deal in capital markets products may deposit its customer's assets with an approved clearing house, a recognised clearing house, a member of an organised market or a member of a clearing facility —

- (a) for the purpose of entering into, facilitating the continued holding of a position in, or facilitating a transaction in, any capital markets products on behalf of the customer on the organised market;
- (b) for the purpose of the clearing or settlement of any capital markets products on the clearing facility for the customer; or
- (c) for any other purpose specified under the business rules and practices of the approved clearing house, recognised clearing house, organised market or clearing facility, as the case may be.

[S 667/2018 wef 08/10/2018]

Customer agreement

31.—(1) Where the holder of a capital markets services licence is licensed to provide custodial services, 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.

[S 667/2018 wef 08/10/2018]

(2) The terms and conditions that apply to the provision of custodial services 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.

[S 667/2018 wef 08/10/2018]

Custody agreement

32.—(1) Subject to paragraph (3) and without affecting regulation 28, 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]

[S 667/2018 wef 08/10/2018]

(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 specified products

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 specified products.

[S 667/2018 wef 08/10/2018]

(2) The holder of a capital markets services licence shall not lend or arrange for a custodian to lend the specified products 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.

[S 667/2018 wef 08/10/2018]

(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 specified products of a customer who is an accredited investor, expert investor or institutional investor.

[S 667/2018 wef 08/10/2018]

(4) The holder of a capital markets services licence which lends its customer's specified products 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 specified products are to be lent.

[S 667/2018 wef 08/10/2018]

(5) The holder of a capital markets services licence which arranges for a custodian to lend specified products 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.

[S 667/2018 wef 08/10/2018]

Mortgage of customer's assets

34.—(1) Despite regulations 26 and 27 and subject to paragraphs (2), (3) and (4) and any agreement between the holder of a capital markets services licence and its customer, where the holder is owed money by its 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 the holder.

(2) The holder of a capital markets services licence must, before mortgaging, charging, pledging or hypothecating a retail customer's assets —

- (a) inform the retail customer that the holder may mortgage, charge, pledge or hypothecate the retail customer's assets but only for a sum not exceeding the amount owed by the customer to the holder;

- (b) explain to the retail customer the risks of mortgaging, charging, pledging or hypothecating the retail customer's assets; and
- (c) obtain the retail customer's written consent to mortgage, charge, pledge or hypothecate the retail customer's assets.

(3) For the purposes of paragraph (1), a sum for which a customer's assets are mortgaged, charged, pledged or hypothecated does not exceed the amount owed by the customer to the holder 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, 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 assets of multiple customers 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.

[S 667/2018 wef 08/10/2018]

Assets received from retail customer

34A. The holder of a capital markets services licence must not, in relation to any assets received from its retail customer, enter into any contract, arrangement or transaction of which the purpose or effect is to transfer any right, interest, benefit or title in those assets to itself or any other person, unless —

- (a) the contract, arrangement or transaction is entered into in connection with borrowing or lending of the retail customer's specified products; and
- (b) the holder complies with regulation 45(1), (3) and (4) in relation to the borrowing or lending (as the case may be) of the retail customer's specified products.

[S 667/2018 wef 08/10/2018]

Withdrawal of customer's assets

35.—(1) 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 capital markets products by the holder for the customer;

[S 667/2018 wef 08/10/2018]

- (c) transferring the asset to any person or account in accordance with the customer's written directions;
- (d) lending of specified products in accordance with regulation 33;

[S 667/2018 wef 08/10/2018]

- (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.

(2) Despite paragraph (1)(c), the holder of a capital markets services licence must not transfer any retail customer's assets to meet any obligation of the holder in relation to any transaction, arrangement or contract entered into by the holder for the benefit of the holder.

[S 667/2018 wef 08/10/2018]

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

Computation for trust accounts and custody accounts

37.—(1) For the purposes of Division 2, a holder of a capital markets services licence to carry on business in any regulated activity must, no later than noon of every business day, complete a computation of —

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

as at the end of the previous business day.

(2) For the purposes of Division 3, a holder of a capital markets services licence to carry on business in dealing in capital markets products that are futures contracts, FX OTC derivatives contracts or spot foreign exchange contracts for purposes of leveraged foreign exchange trading must, no later than noon of every business day, complete a computation of —

- (a) the total amount of assets deposited in its customers' custody accounts; and
- (b) the total amount of its customers' assets required under Part V of the Act and these Regulations to be deposited in custody accounts,

as at the end of the previous business day.

(3) For the purposes of Division 3, a holder of a capital markets services licence to carry on business in any regulated activity (other than dealing in capital markets products that are futures contracts, FX OTC derivatives contracts or spot foreign exchange contracts for purposes of leveraged foreign exchange trading) who is a member of the Central Depository System must —

(a) in respect of assets deposited with the Central Depository System, no later than noon of every business day, complete a computation of —

(i) the total amount of assets deposited in its customers' custody accounts; and

(ii) the total amount of its customers' assets required under Part V of the Act and these Regulations to be deposited in custody accounts,

as at the end of the previous business day; and

(b) in respect of assets that are not deposited with the Central Depository System, no later than noon of the first business day after the last day of each month, complete a computation of —

(i) the total amount of assets deposited in its customers' custody accounts; and

(ii) the total amount of its customers' assets required under Part V of the Act and these Regulations to be deposited in custody accounts,

as at the end of that month.

(4) For the purposes of Division 3, a holder of a capital markets services licence to carry on business in any regulated activity (other than dealing in capital markets products that are futures contracts, FX OTC derivatives contracts or spot foreign exchange contracts for purposes of leveraged foreign exchange trading) who is not a member of the Central Depository System must, no later than noon of the first business day after the last day of each month, complete a computation of —

- (a) the total amount of assets deposited in its customers' custody accounts; and
- (b) the total amount of its customers' assets required under Part V of the Act and these Regulations to be deposited in custody accounts,

as at the end of that month.

(5) The holder must keep the result of each computation required under paragraph (1), (2), (3)(a) or (b) or (4), and all data that supports each such computation, for the period specified in section 102(3) of the Act.

(6) Despite paragraphs (3)(b) and (4), if a holder is unable to obtain information on the total amount of assets deposited in its customers' custody accounts before noon of the first business day after the last day of any month, the holder need not compute the amounts required to be computed under paragraph (3)(b) or (4) (as the case may be) before that time, but must compute those amounts no later than noon of the business day after the day on which the information is obtained by the holder.

(7) In this regulation, "Central Depository System" has the meaning given in section 81SF of the Act.

[S 667/2018 wef 08/10/2018]

Customer's moneys and assets held by approved clearing house or recognised clearing house

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

- (a) whether a market contract that is being cleared by the approved clearing house or recognised clearing house (as the case may be) is a customer's contract; and

[S 667/2018 wef 08/10/2018]

- (b) whether any money or asset being deposited with or paid to the approved clearing house or recognised clearing house (as the case may be) is deposited or paid in respect of or in relation to the customer's contract.

[S 667/2018 wef 08/10/2018]

(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 capital markets product is a party and which is cleared through the first-mentioned holder;

[S 667/2018 wef 08/10/2018]

“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;
 - (da) particulars of every transaction in which the holder lends, or arranges for a custodian to lend, a customer's specified products, including —
 - (i) the terms and conditions of the transaction; and
 - (ii) if any collateral is received, a description of the collateral received;
- [S 667/2018 wef 08/10/2018]*
- (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;
[S 667/2018 wef 08/10/2018]
- (iv) the date and amount of, and the reason for, each disposal of collateral from the trust account or custody account;
- (v) whether the customer has a trust account or custody account maintained by the holder solely for that customer, or shares the same trust account or custody account with other customers of the holder; and
[S 667/2018 wef 08/10/2018]
- (vi) the names of the custodians with whom the holder deposits any assets of the customer;
[S 667/2018 wef 08/10/2018]
- (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;

[S 667/2018 wef 08/10/2018]

- (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; and

[S 667/2018 wef 08/10/2018]

- (k) particulars of every transaction in relation to any OTC derivatives contract entered into on behalf of, or with, the holder's customers, including —
- (i) the price at which the OTC derivatives contract was executed;
 - (ii) the fees or commission and other expenses paid in relation to the transaction; and
 - (iii) the terms and conditions of the transaction, including margin requirements relating to the transaction.

[S 667/2018 wef 08/10/2018]

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

- (a) for each customer, every power of attorney or other document authorising the holder or its representative to operate the account of the customer on a discretionary basis;

[S 667/2018 wef 08/10/2018]

- (b) every written agreement, or copy thereof, entered into by the holder with its customer;

(ba) every disclosure made to a customer under regulation 18A or 27A;

[S 667/2018 wef 08/10/2018]

(bb) every acknowledgment of a customer received under regulation 47DA(1)(b);

[S 667/2018 wef 08/10/2018]

(bc) every document relating to the opening of any trading account of a customer with the holder for the purpose of entering into the transactions in relation to OTC derivatives contracts;

[S 667/2018 wef 08/10/2018]

(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 transaction to purchase or sell any capital markets products 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;

[S 667/2018 wef 08/10/2018]

- (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 capital markets products shall —

- (a) as soon as practicable upon the receipt of a customer's order for capital markets products that are securities and units in a collective investment scheme that are not quoted on an organised market 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;

- (ii) the date of receipt of the order, amendment or cancellation; 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;
- [S 667/2018 wef 08/10/2018]*
- (b) as soon as practicable upon the execution of an order mentioned in sub-paragraph (a), prepare and keep a written record of the particulars of the transaction, including —
- (i) the date of the execution of the order; and
 - (ii) any subsequent variation to the order;
- [S 667/2018 wef 08/10/2018]*
- (c) as soon as practicable upon the receipt of a customer's order for capital markets products other than securities and units in a collective investment scheme that are not quoted on an organised market 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;
 - (ii) the date and time of receipt of the order, amendment or cancellation;
 - (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
 - (iv) where the order, amendment or cancellation is transmitted to a member of an organised market or to the trading floor of such an organised market, the date and time the order, amendment or cancellation is transmitted;

[S 667/2018 wef 08/10/2018]

- (d) as soon as practicable upon the execution of an order mentioned in sub-paragraph (c), prepare and keep a written record of the particulars of the transaction, including —
- (i) the date and time of the execution of the order; and
 - (ii) any subsequent variation to the order.

[S 667/2018 wef 08/10/2018]

(4) Paragraph (3) shall not apply to the holder of a capital markets services licence to deal in capital markets products that are futures contracts in respect of a transaction by an arbitrageur or a market-maker for the purchase or sale of futures contracts specified by an approved 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 approved exchange.

[S 667/2018 wef 08/10/2018]

(5) In this regulation —

“arbitrageur” means a person who —

- (a) is appointed, approved or registered by an approved exchange as an arbitrageur in respect of futures contracts specified by the approved exchange; and

[S 667/2018 wef 08/10/2018]

- (b) purchases or sells any futures contract specified by the approved exchange in an organised 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;

[S 667/2018 wef 08/10/2018]

“market-maker” means a person who —

- (a) is appointed, approved or registered by an approved exchange as a market-maker in respect of futures contracts specified by the approved exchange;

[S 667/2018 wef 08/10/2018]

- (b) enters into transactions for the purchase or sale of futures contracts specified by the approved exchange for his own account;

[S 667/2018 wef 08/10/2018]

- (c) regularly publishes *bona fide* competitive bid and offer quotations in respect of futures contracts specified by the approved exchange; and

[S 667/2018 wef 08/10/2018]

- (d) is ready, willing and able to effect transactions at his quoted prices with other persons in respect of futures contracts specified by the approved exchange.

[S 667/2018 wef 08/10/2018]

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, an expert investor or an institutional 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.

[S 667/2018 wef 08/10/2018]

(1B) Despite paragraph (1A), where the holder of a capital markets services licence receives a request from a customer for a statement of account mentioned in paragraph (1), the holder must provide the customer with the statement as soon as practicable.

[S 667/2018 wef 08/10/2018]

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

- (a) transactions to purchase or sell securities or units in a collective investment scheme entered into by the customer and the price at which the transactions are entered into;

[S 667/2018 wef 08/10/2018]

- (b) a list of derivatives contracts entered into by the customer and spot foreign exchange contracts for the purposes of leveraged foreign exchange trading entered into by the customer that are outstanding and have not been liquidated, the prices at which such contracts were acquired, and the net unrealised profits or losses of the customer in all such contracts marked to the market;

[S 667/2018 wef 08/10/2018]

- (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 the lending of specified products under regulation 33 or held as collateral under regulation 34;

[S 667/2018 wef 08/10/2018]

- (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 paragraphs (4), (5) and (6), 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, derivatives contracts of the customer and spot foreign exchange contracts for the purposes of leveraged foreign exchange trading of the customer that are outstanding and have not been liquidated and cash balances (if any) of the customer as at the end of that quarter.

[S 667/2018 wef 08/10/2018]

(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) do not apply to a holder of a capital markets services licence for dealing in capital markets products that is a member of an approved clearing house, if the statements of account mentioned in those paragraphs are furnished to the customer by the approved clearing house or a Depository within the meaning of section 81SF of the Act.

[S 667/2018 wef 08/10/2018]

(6) Paragraphs (1) and (3) do not apply to a holder of a capital markets services licence for dealing in capital markets products all the customers of which are institutional investors, if the holder performs periodic reconciliation, between the holder's records and its customers' records, in respect of its customers' transactions and positions in capital markets products.

[S 667/2018 wef 08/10/2018]

(7) In this regulation —

- (a) a derivatives contract has not been liquidated if —
 - (i) the derivatives contract has not been set off against any other transaction;
 - (ii) any underlying thing of the derivatives contract has not been delivered;
 - (iii) the derivatives contract has not been settled in accordance with the business rules or practices of an organised market or clearing facility; and
 - (iv) the derivatives contract has not been substituted with a cash commodity; and
- (b) a spot foreign exchange contract for the purposes of leveraged foreign exchange trading has not been liquidated if —
 - (i) the spot foreign exchange contract for the purposes of leveraged foreign exchange trading has not been set off against any other transaction;
 - (ii) the currency of the spot foreign exchange contract for the purposes of leveraged foreign exchange trading has not been delivered;
 - (iii) the spot foreign exchange contract for the purposes of leveraged foreign exchange trading has not been settled in accordance with the business rules or practices of an organised market or clearing facility; and
 - (iv) the spot foreign exchange contract for the purposes of leveraged foreign exchange trading has not been substituted with a futures contract.

[S 667/2018 wef 08/10/2018]

Documentation required by Authority, approved exchange or approved clearing house

41. Where the Authority, an approved exchange or approved 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, approved exchange or approved clearing house, as the case may be.

[S 667/2018 wef 08/10/2018]

Contract notes

42.—(1) Subject to paragraph (1A), the holder of a capital markets services licence to deal in capital markets products shall, in respect of a sale or purchase of any capital markets products, 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]

[S 667/2018 wef 08/10/2018]

(1A) Paragraph (1) does not apply to any transaction of sale or purchase of securities, units in a collective investment scheme or exchange-traded derivatives contracts effected by the holder of a capital markets services licence through a member of an approved exchange or overseas 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 of a contract note, 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 667/2018 wef 08/10/2018]

(1AA) Paragraph (1) does not apply to any transaction of sale or purchase of OTC derivatives contracts, if the holder gives to the other party to the transaction a confirmation in respect of the transaction that states —

- (a) the name of the holder;
- (b) the name of the party to whom the confirmation is given;

- (c) where the holder is dealing in OTC derivatives contracts as a principal, a statement that is so acting;
- (d) the date on which the transaction is entered into; and
- (e) the type and notional value of the over-the-counter derivatives contracts.

[S 667/2018 wef 08/10/2018]

(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 capital markets products, and the address of the principal place at which the holder carries on the business;

[S 667/2018 wef 08/10/2018]

- (b) where the holder is —

- (i) dealing in capital markets products other than futures contracts as a principal; or

[S 667/2018 wef 08/10/2018]

- (ii) dealing in capital markets products that are futures contracts against its customer,

a statement that it is so acting;

[S 667/2018 wef 08/10/2018]

- (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 or units in a collective investment scheme, the number or amount, and description of the securities or units in a collective investment scheme that are the subject of the transaction;

[S 667/2018 wef 08/10/2018]

- (f) in respect of a sale or purchase of derivatives contracts or a transaction connected with spot foreign exchange contracts for the purposes of leveraged foreign exchange trading, the quantity and type of the derivatives contract or the amount

of spot foreign exchange contracts that is the subject of the transaction, as the case may be;

[S 667/2018 wef 08/10/2018]

- (g) in respect of a sale or purchase of capital markets products, 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

[S 667/2018 wef 08/10/2018]

- (h) in respect of a sale or purchase of capital markets products, 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 capital markets products, the first-mentioned amount and the nature of the benefit.

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

[S 667/2018 wef 08/10/2018]

(2) The holder of a capital markets services licence shall, no later than the business day immediately following a sale or purchase of capital markets products, give to the other party to the transaction a contract note for the transaction.

[S 667/2018 wef 08/10/2018]

(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 specified products listed for quotation or quoted on an approved exchange or an overseas exchange, means —

(a) the last transacted price of the specified products traded on the exchange on the preceding business day;

[S 667/2018 wef 08/10/2018]

(b) if there was no trading in the specified products 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 specified products on the exchange; or

[S 667/2018 wef 08/10/2018]

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

[S 667/2018 wef 08/10/2018]

“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 capital markets products 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,

[S 667/2018 wef 08/10/2018]

shall not enter into a transaction for the purchase or sale of capital markets products that are permitted to be traded on an organised market of an approved exchange or a recognised market operator 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, capital markets products of the same class and the holder or representative has not complied with the instruction.

[S 667/2018 wef 08/10/2018]

(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 capital markets products on behalf of the customer to be effected only on specified conditions and he has been unable to purchase or sell the capital markets products by reason of those conditions; or

[S 667/2018 wef 08/10/2018]

- (b) if the transaction is entered into in accordance to the business rules or practices of the approved exchange through which the transaction is entered into.

[S 667/2018 wef 08/10/2018]

(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]

Specified products borrowing and lending

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

- (a) borrows specified products from an owner of those specified products (referred to in this regulation as the lender), the holder shall provide Collateral to the lender for the borrowing of the specified products; and

[S 667/2018 wef 08/10/2018]

- (b) lends specified products, including specified products 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 specified products.

[S 667/2018 wef 08/10/2018]

(2) Paragraph (1)(a) shall not apply to a holder of a capital markets services licence when the holder borrows specified products from an accredited investor, expert investor or institutional investor.

[S 667/2018 wef 08/10/2018]

(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 specified products are borrowed or lent, have a value not less than 100% of the market value of the specified products borrowed or lent.

[S 667/2018 wef 08/10/2018]

(4) Where the holder of a capital markets services licence borrows or lends specified products 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.

[S 667/2018 wef 08/10/2018]

(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 specified products lent from the lender to the holder, or the holder to the borrower, as the case may be;

[S 667/2018 wef 08/10/2018]

- (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 specified products (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;

[S 667/2018 wef 08/10/2018]

- (d) provide for the following rights throughout the period that the specified products are borrowed or lent:
 - (i) in the case where the holder borrows specified products from a lender, the rights of the lender in

relation to the minimum Collateral and the rights of the holder in relation to the specified products borrowed; and

[S 667/2018 wef 08/10/2018]

- (ii) in the case where the holder lends specified products to a borrower, the rights of the holder in relation to the minimum Collateral and the rights of the borrower in relation to the specified products borrowed,

including the treatment of dividend payments, voting and other rights and arrangements for dealing with any corporate action;

[S 667/2018 wef 08/10/2018]

- (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 specified products lent or borrowed, as the case may be, and all minimum Collateral comprising specified products and the procedures for calculating the margins;

[S 667/2018 wef 08/10/2018]

- (g) provide for the procedures for the request for the return of the specified products lent, and the arrangements for dealing with the situation where such specified products cannot be delivered by —
 - (i) the holder, where the holder borrows specified products from a lender; and
 - (ii) the borrower, where the holder lends specified products to a borrower;

[S 667/2018 wef 08/10/2018]

- (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 specified products from an accredited investor, expert investor or institutional 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, expert investor or institutional investor or their duly authorised agent, as the case may be, regardless of whether the holder provides any assets to the accredited investor, expert investor or institutional investor as collateral for the borrowing.

[S 667/2018 wef 08/10/2018]

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

- (a) the terms and conditions in the written agreement that apply to the borrowing of specified products 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, expert investor or institutional investor as collateral for the borrowing; and
 - (ii) any reference to the lender shall be construed as a reference to the accredited investor, expert investor or institutional investor; and

[S 667/2018 wef 08/10/2018]

- (b) where assets are provided to the accredited investor, expert investor or institutional investor as collateral for the borrowing, the written agreement shall specify —

- (i) whether the specified products borrowed and the assets provided comprising specified products, if any, are marked to market; and
- (ii) if so, the procedures for calculating the margins.

[S 667/2018 wef 08/10/2018]

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

- (a) where it borrows specified products 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 specified products borrowed as at the time the additional assets are provided to the lender; and

[S 667/2018 wef 08/10/2018]

- (b) where it lends specified products 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 specified products lent as at the time the additional assets are obtained from the borrower.

[S 667/2018 wef 08/10/2018]

(9) In this regulation —

“Collateral” means —

- (a) cash;
- (b) Government securities;
- (c) marginable specified products;

[S 667/2018 wef 08/10/2018]

- (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 specified products from a lender; and
[S 667/2018 wef 08/10/2018]
 - (B) the borrower where the holder lends specified products to a borrower;
[S 667/2018 wef 08/10/2018]
- (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 specified products from a lender; and
[S 667/2018 wef 08/10/2018]
 - (BB) the borrower where the holder lends specified products to a borrower; and
[S 667/2018 wef 08/10/2018]
 - (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 specified products from a lender; and
[S 667/2018 wef 08/10/2018]
 - (BB) the holder where the holder lends specified products to a borrower;
[S 667/2018 wef 08/10/2018]

(iv) is not a security issued by —

(A) in the case where the holder borrows specified products from a lender —

(AA) the holder, that gives rise to exposure to the holder; or

(BB) a related corporation of the holder; and

[S 667/2018 wef 08/10/2018]

(B) in the case where the holder lends specified products to a borrower —

(AA) the borrower, that gives rise to exposure to the borrower; or

(BB) a related corporation of the borrower; and

[S 667/2018 wef 08/10/2018]

(v) is not a security that is prohibited from serving as collateral by any approved exchange or approved clearing house, as the case may be; or

[S 667/2018 wef 08/10/2018]

(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 specified products;

[S 667/2018 wef 08/10/2018]

[Deleted by S 667/2018 wef 08/10/2018]

“marginable specified products” means —

- (a) specified products listed for quotation or quoted on the Singapore Exchange Securities Trading Limited;
- (b) in the case of an initial public offer, specified products 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) specified products 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 specified products as the Authority may approve and set out in a guideline issued by the Authority;

[S 667/2018 wef 08/10/2018]

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

- (a) the last transacted price of the specified products traded on the exchange on the preceding business day;

[S 667/2018 wef 08/10/2018]

- (b) if there was no trading in the specified products 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 specified products on the exchange; or

[S 667/2018 wef 08/10/2018]

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

[S 667/2018 wef 08/10/2018]

“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 an approved exchange or an overseas exchange;

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(b) made in the course of an offer of securities or securities-based derivatives contracts —

- (i) other than an offer of securities or securities-based derivatives contracts 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;

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- (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; or

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- (c) *[Deleted by S 667/2018 wef 08/10/2018]*

- (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]

- (8) A specified person must not, directly or indirectly, publish, circulate or distribute on or after 8 October 2018 but before 10 December 2018 any advertisement —

- (a) which refers, directly or indirectly, to any past specific recommendations of the specified person in relation to any specified product or futures contract which were or would have been profitable to any person, except that the specified person may refer in an advertisement to a list of all recommendations made by the specified person within the period of not less than one year immediately before the date the advertisement is published, circulated or distributed, which list, if furnished separately from the advertisement, must —

- (i) state the name of each specified product or futures contract (as the case may be) recommended, the date and nature of the recommendation, the market price at that time, the price at which the recommendation was to be acted upon, and the market price of the specified product or futures contract (as the case may be) as of the most recent practicable date; and
 - (ii) contain a statement, in as large a font as the largest font used in the body of the advertisement, to the effect that the past performance of the specified product or futures contract (as the case may be) in the list is not indicative of the future performance of the specified product or futures contract (as the case may be);
- (b) which represents, directly or indirectly, that any graph, chart, formula or other device set out or referred to in the advertisement —
 - (i) can, in and of itself, be used to determine which specified product or futures contract to buy or sell, or when to buy or sell them; or
 - (ii) will assist any person in deciding which specified product or futures contract to buy or sell, or when to buy or sell them,without prominently disclosing in the advertisement the limitations of such graph, chart, formula or device (as the case may be) and the difficulties with respect to its use;
- (c) which contains any statement to the effect that any report, analysis or other service will be provided free or without charge, unless such report, analysis or service is in fact or will in fact be provided in its entirety and without any condition or obligation; or
- (d) which contains any inaccurate or misleading statement or presentation, or any exaggerated statement or presentation

that is calculated to exploit an individual's lack of experience and knowledge.

[S 667/2018 wef 08/10/2018]

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 17 of the Securities and Futures (Offers of Investments) (Securities and Securities-based Derivatives Contracts) Regulations 2018 (G.N. No. S 664/2018);

[S 667/2018 wef 08/10/2018]

(ii) *[Deleted by S 667/2018 wef 08/10/2018]*

(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 19A(1) of the Securities and Futures (Offers of Investments) (Collective Investment Schemes) Regulations 2005 (G.N. No. S 602/2005).

[S 667/2018 wef 08/10/2018]

(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 capital markets products, or a representative of such a holder, shall not withhold or withdraw from an organised market any order or any part of a customer's order for the benefit of itself or himself, or of any other person.

[S 667/2018 wef 08/10/2018]

(2) The holder of a capital markets services licence to deal in capital markets products, 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 approved exchange, recognised market operator, approved clearing house or recognised clearing house, as the case may be; or

[S 667/2018 wef 08/10/2018]

- (c) is required by the Authority under the Act or these Regulations.

[S 667/2018 wef 08/10/2018]

Disclosure of certain interests in respect of underwriting agreement

47A.—(1) Where —

- (a) specified products have been offered for subscription or purchase; and

[S 667/2018 wef 08/10/2018]

- (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 specified products under an underwriting or sub-underwriting agreement by reason that some or all of the specified products 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 specified products otherwise than in the ordinary course of trading on an approved exchange or recognised market operator; or

[S 667/2018 wef 08/10/2018]

- (ii) make a recommendation, whether orally or in writing and whether expressly or by implication, with respect to those specified products,

unless the offer or recommendation contains or is accompanied by a statement to the effect that the offer or recommendation relates to specified products 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 specified products have not been subscribed for or purchased.

[S 667/2018 wef 08/10/2018]

(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 specified products.

[S 667/2018 wef 08/10/2018]

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

(a) making an offer to sell any specified products, or making a recommendation with respect to those specified products, to —

- (i) an accredited investor;
- (ii) an expert investor; or
- (iii) an institutional investor; or

[S 667/2018 wef 08/10/2018]

(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 capital markets products shall not, as principal, enter into any transaction of sale or purchase of any specified product with any customer who is not the holder of a capital markets services licence to deal in capital markets products unless the holder first informs the customer that the holder is acting in the transaction as principal and not as agent.

[S 667/2018 wef 08/10/2018]

(2) The holder of a capital markets services licence to deal in capital markets products which enters into a transaction of sale or purchase

of specified products, as principal, with a customer who is not the holder of a capital markets services licence to deal in capital markets products shall state in the contract note that the holder is acting in the transaction as principal and not as agent.

[S 667/2018 wef 08/10/2018]

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

[S 667/2018 wef 08/10/2018]

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

[S 667/2018 wef 08/10/2018]

(5) Where the holder of a capital markets services licence to deal in capital markets products fails to comply with paragraph (1) or (2) in respect of a contract for the sale of specified products by the holder, the purchaser of those specified products 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.

[S 667/2018 wef 08/10/2018]

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

[S 667/2018 wef 08/10/2018]

(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 capital markets products entering into a transaction of sale or purchase of specified products 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;

[S 667/2018 wef 08/10/2018]

(b) a reference to specified products is a reference to specified products permitted to be traded on an organised market of —

- (i) an approved exchange;
- (ii) an overseas exchange; or
- (iii) a recognised market operator; and

[S 667/2018 wef 08/10/2018]

(c) a reference to a market-maker is a reference to —

(i) the holder of a capital markets services licence which —

(A) deals in capital markets products that are specified products for its own account;

[S 667/2018 wef 08/10/2018]

(B) regularly publishes bona fide competitive bids and offers quotations in respect of those specified products;

[S 667/2018 wef 08/10/2018]

(C) is ready, willing and able to enter into transactions at such quoted prices with other

persons in respect of those specified products;
and

[S 667/2018 wef 08/10/2018]

(D) is recognised as a market-maker by an approved exchange, an overseas exchange or the Authority; or

[S 667/2018 wef 08/10/2018]

(ii) a designated market-maker referred to in paragraph 2(i) of the Second Schedule.

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

No dealing as agent

47BA. A holder of a capital markets services licence must not deal with a retail customer as an agent when dealing in capital markets products that are —

- (a) OTC derivatives contracts; or
- (b) spot foreign exchange contracts for the purposes of leveraged foreign exchange trading.

[S 667/2018 wef 08/10/2018]

Trading against customer

47C.—(1) The holder of a capital markets services licence to deal in capital markets products 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 an approved exchange or recognised market operator.

[S 667/2018 wef 08/10/2018]

(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 deal in capital markets products shall not knowingly fill or execute a customer's order for the purchase or sale of a futures contract on an organised 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 an approved exchange or recognised market operator.

[S 667/2018 wef 08/10/2018]

(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]

General risk disclosure requirements

47DA.—(1) Subject to paragraph (3), a holder of a capital markets services licence to deal in specified capital markets products must not open a trading account for a customer for the purpose of entering into transactions of sale and purchase of any specified capital markets products unless the holder —

- (a) furnishes the customer with a written risk disclosure document prepared by the holder that discloses the material risks of the specified capital markets products; 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 provided.

(2) Subject to paragraph (3), the holder must not enter any transaction of sale or purchase of any specified capital markets products unless —

(a) the holder has informed the customer whether the holder is acting in that transaction as a principal or an agent;

(b) the holder —

(i) has informed the customer that the holder intends to act as a principal in all transactions of sale or purchase of specified capital markets products with the customer; and

(ii) is acting in that transaction as a principal; or

(c) the holder —

(i) has informed the customer that the holder intends to act in as an agent for all transactions of sale or purchase of specified capital markets products with the customer; and

(ii) is acting in that transaction as an agent.

(3) Paragraphs (1) and (2) do not apply to the holder in respect of a customer who is —

(a) an accredited investor;

(b) an expert investor;

(c) an institutional investor; or

(d) a related corporation of the holder.

(4) In this regulation, “specified capital markets products” means capital markets products other than futures contracts, spot foreign exchange contracts for the purposes of leveraged foreign exchange trading and FX OTC derivatives contracts.

[S 667/2018 wef 08/10/2018]

Risk disclosure by certain persons

47E.—(1) The holder of a capital markets services licence to deal in capital markets products shall not open a trading account for the purposes of trading in futures contracts, spot foreign exchange

contracts for the purposes of leveraged foreign exchange trading or FX OTC derivatives contracts for a retail customer who is not a related corporation of the holder 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.

[S 667/2018 wef 08/10/2018]

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

- (a) managing the retail customer's trading account for the purposes of trading in futures contracts, spot foreign exchange contracts for the purposes of leveraged foreign exchange trading or FX OTC derivatives contracts; or

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- (b) guiding the retail customer's trading account for the purposes of trading in futures contracts, spot foreign exchange contracts for the purposes of leveraged foreign exchange trading or FX OTC derivatives contracts,

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 retail customer who is not a related corporation of the holder a risk disclosure document in Form 14; and

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- (ii) receives from the prospective retail customer who is not a related corporation of the holder 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.

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(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 retail customer who is not a related corporation of the holder are kept in Singapore.

[S 667/2018 wef 08/10/2018]

(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 capital markets products;

[S 667/2018 wef 08/10/2018]

(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 capital markets products under paragraph (2)(e) of the Second Schedule.

[S 667/2018 wef 08/10/2018]

(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 excess of the position limit set under section 29 or 41 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]

[S 667/2018 wef 08/10/2018]

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, Divisions 1, 3 and 4 of Part III of these Regulations and regulations 13(b)(ix), 39(1)(e) and (k), (2)(ba), (bb), (bc), (c) and (d), (3), (4) and (5), 40, 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]

[S 667/2018 wef 08/10/2018]

(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]

Exempt persons dealing in non-centrally cleared derivatives contracts on behalf of accredited investors, expert investors or institutional investors

54B.—(1) A person exempted from holding a capital markets services licence under section 99(1)(a), (b) or (c) of the Act who deals in non-centrally cleared derivatives contracts with accredited investors, expert investors or institutional investors must implement policies and procedures to ensure the following:

- (a) that written trading relationship documentation is signed with each counterparty before, or at the time when, the person enters into a non-centrally cleared derivatives contract, except where —
 - (i) that derivatives contract is the only transaction between the exempt person and that counterparty; and
 - (ii) the person provides a written trade confirmation of the material rights and obligations of the exempt person and that counterparty under that derivatives contract;
- (b) that a written trade confirmation of the material terms of each non-centrally cleared derivatives contract is provided to each counterparty, as soon as practicable after the execution of each non-centrally cleared derivatives contract;
- (c) that the person's records of the material terms and valuations of each non-centrally cleared derivatives contract in its portfolio are reconciled, at regular intervals, with each counterparty's records of such material terms and valuations;

- (d) that the necessity of portfolio compression in relation to the person's portfolio of non-centrally cleared derivatives contracts is assessed at regular intervals; and
- (e) that, in the case of any dispute arising from any discrepancy between the person's records of the material terms or valuations of any non-centrally cleared derivatives contract in its portfolio with a counterparty's records of such material terms and valuations, agreement is sought with that counterparty on a dispute resolution mechanism to resolve that dispute.

(2) In this regulation —

“non-centrally cleared derivatives contract” means an OTC derivatives contract that —

- (a) is not, and is not intended to be, cleared or settled by a person operating a clearing facility through which parties to the contract substitute, through novation or otherwise, the credit of the person operating the clearing facility for the credit of the parties; and
- (b) is booked in Singapore;

“portfolio compression” means a process —

- (a) that is applied to a portfolio of derivatives contracts;
- (b) under which some or all of the derivatives contracts in the portfolio are —
 - (i) modified to reduce their notional amount; or
 - (ii) terminated and replaced with one or more new derivatives contracts which have the effect of reducing notional exposures between the participants; and
- (c) that is conducted for the purposes of reducing counterparty risk or operational risk for the participants.

[S 667/2018 wef 08/10/2018]

Offences

55. Any person who contravenes any of the following provisions shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000:

- (a) regulation 4(1), (2) or (3), 5(1), (2) or (3), 7(2A), 11(2), (3) or (4), 11A(2) or (3), 13, 13B, 13D(4) or (5), 13E, 14(4), (4A) or (6), 16(1), (2), (3) or (5), 17(1), (3), (4) or (5), 18(1) or (2), 18A, 20(2), 20A, 21(1) or (2), 22(2), 26(1), (2) or (5), 27(1), 27A, 28, 29, 31, 32, 33(2), (4) or (5), 34, 34A, 35(1) or (2), 37(1), (2), (3), (4), (5) or (6), 38(1), 39(1), (2) or (3), 40(1), (1B), (2) or (3), 41, 43(1) or (2), 45(1), (3), (4), (5), (6) or (7), 46(1) or (8), 46AC(1) or (2), 46AD(1), 47, 47BA, 47DA(1) or (2) or 48(1);
- (b) paragraphs 3(4)(c), (d), (e)(ii) or (f), 3A(4)(c), (d), (e)(ii) or (f) or (5), 5(7A), (7G), (7I) or (7J) or 7(6) of the Second Schedule;
- (c) a direction issued by the Authority under regulation 51 or paragraph 5(7H) of the Second Schedule.

[S 667/2018 wef 08/10/2018]

PART VII EXEMPTIONS

Definitions of this Part

56. In this Part, except where the context otherwise requires —

“bank” means a bank licensed under the Banking Act;

“finance company” means a finance company licensed under the Finance Companies Act;

“merchant bank” means a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act;

“specified contract” means a specified FX contract or a specified OTC derivatives contract;

“specified foreign exchange contract” or “specified FX contract” means any of the following:

- (a) a foreign exchange OTC derivatives contract that is arranged by any bank or merchant bank;
- (b) a spot foreign exchange contract for the purposes of leveraged foreign exchange trading that is arranged by any bank or merchant bank;

“specified OTC derivatives contract” means an OTC derivatives contract that —

- (a) is not a securities based derivatives contract; and
- (b) is not a foreign exchange OTC derivatives contract.

[S 667/2018 wef 08/10/2018]

Exemption from section 82(1) of Act for corporations previously carrying on business in dealing in specified OTC derivatives contracts

57.—(1) A corporation which, immediately before 8 October 2018, was carrying on business in dealing in specified OTC derivatives contracts is exempt from section 82(1) of the Act in respect of any business in the regulated activity of dealing in capital markets products that are specified OTC derivatives contracts until 8 October 2020, unless another date applies under paragraph (2), (3) or (4).

(2) If a corporation mentioned in paragraph (1) —

- (a) is, on 8 October 2018, a corporation that does not hold a capital markets services licence; and
- (b) applies to the Authority under section 86(1) of the Act before 8 October 2020 for a capital markets services licence to carry on business in the regulated activity of dealing in capital markets products,

the corporation is exempt under paragraph (1) until the earlier of the following dates:

- (c) the date on which the Authority grants the corporation a capital markets services licence;
- (d) the date on which the Authority refuses to grant the corporation a capital markets services licence;

(e) the date on which the corporation withdraws its application for a capital markets services licence.

(3) If a corporation mentioned in paragraph (1) —

(a) holds, on 8 October 2018, a capital markets services licence that does not relate to the regulated activity of dealing in capital markets products; and

(b) applies to the Authority under section 90(1) of the Act before 8 October 2020 to vary its capital markets services licence by adding the regulated activity of dealing in capital markets products,

the corporation is exempt under paragraph (1) until the earlier of the following dates:

(c) the date on which the Authority varies the corporation's capital markets services licence;

(d) the date on which the Authority refuses to vary the corporation's capital markets services licence;

(e) the date on which the corporation withdraws its application to vary its capital markets services licence.

(4) If a corporation mentioned in paragraph (1) —

(a) holds, on 8 October 2018, a capital markets services licence to carry on business in dealing in capital markets products that is subject to a condition or restriction imposed by the Authority under section 88(1A) of the Act restricting the holder to carrying on business in dealing in capital markets products other than OTC derivatives contracts; and

(b) requests the Authority before 8 October 2020 to vary the condition or restriction mentioned in sub-paragraph (a), such that the holder is not restricted from carrying on business in dealing in capital markets products that are OTC derivatives contracts,

the corporation is exempt under paragraph (1) until the earlier of the following dates:

- (c) the date on which the Authority varies that condition or restriction;
- (d) the date on which the Authority refuses to vary that condition or restriction;
- (e) the date on which the person withdraws its request to vary that condition or restriction.

[S 667/2018 wef 08/10/2018]

Exemptions from Act for persons previously holding financial adviser's licence for marketing of any collective investment scheme and their representatives

58.—(1) A person who, immediately before 8 October 2018, was a holder of a financial adviser's licence for marketing of any collective investment scheme under section 13(1) of the Financial Advisers Act is, subject to the condition under paragraph (3), exempt from section 82(1) of the Act in respect of any business in dealing in capital markets products that are units in any collective investment scheme until 8 April 2019, unless another date applies under paragraph (2).

(2) If a person mentioned in paragraph (1) applies to the Authority under section 86(1) of the Act before 8 April 2019 for a capital markets services licence to carry on business in dealing in capital markets products, the person is exempt under paragraph (1) until the earlier of the following dates:

- (a) the date on which the Authority grants the person a capital markets services licence;
- (b) the date on which the Authority refuses to grant the person a capital markets services licence;
- (c) the date on which the person withdraws its application for a capital markets services licence.

(3) The condition mentioned in paragraph (1) is that the person must deposit all moneys or property received on account of its customers, in respect of its business in dealing in capital markets products that are units in any collective investment scheme, with any of the following persons, no later than the business day immediately

following the day on which the person or any of its representatives receives such money or property:

- (a) the manager of the collective investment scheme, the trustee of the collective investment scheme or any person who is authorised by the manager or the trustee of the collective investment trust to receive the customer's money or property on its behalf;
- (b) a holder of a capital markets services licence under the Act to provide custodial services which is authorised by the customer to receive the customer's money or property;
- (c) a person who is exempted under the Act from holding a capital markets services licence to provide custodial services which is authorised by the customer to receive the customer's money or property.

(4) An appointed or provisional representative who was, immediately before 8 October 2018, a representative of a holder of a financial adviser's licence for marketing of any collective investment scheme under section 13(1) of the Financial Advisers Act, or of a person exempt from holding a financial adviser's licence for marketing of any collective investment scheme under section 23(1) of the Financial Advisers Act, is, on or before 31 December 2018, exempt from section 99K(2) of the Act in relation to the retention of his name, in the public register of representatives, as an appointed or provisional representative in respect of dealing in capital markets products that are in a collective investment scheme.

[S 667/2018 wef 08/10/2018]

Exemption from Act for persons previously acting as representatives

59.—(1) An individual who, immediately before 8 October 2018, was acting as a representative of a corporation that was carrying on business in dealing in specified OTC derivatives contracts is exempt from section 99B(1) of the Act when acting as a representative in respect of dealing in capital markets products that are specified OTC

derivatives contracts until 8 October 2020, unless another date applies under paragraph (3), (4) or (5).

(2) An individual who, immediately before 8 October 2018, was acting as a representative of a bank or merchant bank that was carrying on business in dealing in specified FX contracts is, exempt from section 99B(1) of the Act when acting as a representative in respect of dealing in capital markets products that are specified FX contracts until 8 October 2020, unless another date applies under paragraph (3), (4) or (6).

(3) If an individual mentioned in paragraph (1) or (2) —

- (a) is not, on 8 October 2018, an appointed representative in respect of any type of regulated activity; and
- (b) is the subject of a notice of intent lodged with the Authority under section 99H(1)(a) of the Act before 8 October 2020 to appoint the individual as an appointed representative in respect of the regulated activity of dealing in capital markets products,

the individual is exempt under paragraph (1) or (2) (as the case may be) until the earlier of the following dates:

- (c) the date on which the Authority enters the name of the individual in the public register of representatives;
- (d) the date on which the Authority refuses to enter the name of the individual in the public register of representatives;
- (e) the date on which the notice of intent to appoint the individual as an appointed representative is withdrawn.

(4) If an individual mentioned in paragraph (1) or (2) —

- (a) is, on 8 October 2018, an appointed representative in respect of any type of regulated activity other than the regulated activity of dealing in capital markets products; and
- (b) is the subject of a notice of intent lodged with the Authority under section 99L(1) of the Act before 8 October 2020 to appoint the individual as an appointed representative in

respect of the regulated activity of dealing in capital markets products,

the individual is exempt under paragraph (1) or (2) (as the case may be) until the earlier of the following dates:

- (c) the date on which the Authority enters the additional type of regulated activity that the individual may carry out in the public register of representatives;
- (d) the date on which the Authority refuses to enter the additional type of regulated activity in the public register of representatives;
- (e) the date on which the notice of intent to appoint the individual as an appointed representative in respect of the regulated activity of dealing in capital markets products is withdrawn.

(5) If an individual mentioned in paragraph (1) —

- (a) is, on 8 October 2018, an appointed representative in respect of the regulated activity of dealing in capital markets products whose entry in the public register of representatives does not indicate that he is appointed in respect of dealing in capital markets products that are OTC derivatives contracts; and
- (b) is the subject of a notice in Form 6 lodged with the Authority before 8 October 2020 to add “OTC derivatives contracts” as a type of capital markets products in respect of which the individual performs the regulated activity of dealing in capital markets products in the records kept by the Authority under section 99C(1) of the Act,

the individual is exempt under paragraph (1) until the earlier of the following dates:

- (c) the date on which the Authority enters “OTC derivatives contracts” as an additional type of capital markets products against the individual’s name in the public register of representatives;

- (d) the date on which the Authority refuses to enter “OTC derivatives contracts” as an additional type of capital markets products against the individual’s name in the public register of representatives;
 - (e) the date on which the notice to add “OTC derivatives contracts” as an additional type of capital markets products in respect of which the individual performs the regulated activity of dealing in capital markets products in the records kept by the Authority under section 99C(1) of the Act is withdrawn.
- (6) If an individual mentioned in paragraph (2) —
- (a) is, on 8 October 2018, an appointed representative in respect of the regulated activity of dealing in capital markets products whose entry in the public register of representatives does not indicate that he is appointed in respect of dealing in capital markets products that are OTC derivatives contracts or spot foreign exchange contracts for the purposes of leveraged foreign exchange trading; and
 - (b) is the subject of a notice in Form 6 lodged with the Authority before 8 October 2020 to add “OTC derivatives contracts” or “spot foreign exchange contracts for the purposes of leveraged foreign exchange trading” as types of capital markets products in respect of which the individual performs the regulated activity of dealing in capital markets products in the records kept by the Authority under section 99C(1) of the Act,
- the individual is exempt under paragraph (2) until the earlier of the following dates:
- (c) the date on which the Authority enters “OTC derivatives contracts” or “spot foreign exchange contracts for the purposes of leveraged foreign exchange trading” as an additional type of capital markets products against the individual’s name in the public register of representatives;
 - (d) the date on which the Authority refuses to enter “OTC derivatives contracts” or “spot foreign exchange contracts

for the purposes of leveraged foreign exchange trading” as an additional type of capital markets products against the individual’s name in the public register of representatives;

- (e) the date on which the notice to add “OTC derivatives contracts” or “spot foreign exchange contracts for the purposes of leveraged foreign exchange trading” as an additional type of capital markets products in respect of which the individual performs the regulated activity of dealing in capital markets products in the records kept by the Authority under section 99C(1) of the Act is withdrawn.

(7) A principal of an individual exempt under paragraph (1) is exempt from section 99B(3) of the Act in respect of permitting that individual to carry on business in dealing in capital markets products that are specified OTC derivatives contracts on behalf of that principal.

(8) A principal of an individual exempt under paragraph (2) is exempt from section 99B(3) of the Act in respect of permitting that individual to carry on business in dealing in capital markets products that are specified FX contracts on behalf of that principal.

[S 667/2018 wef 08/10/2018]

Exemptions for exempt persons previously carrying on business in dealing in specified contracts

60.—(1) A person mentioned in section 99(1)(a) or (b) of the Act who was, immediately before 8 October 2018, carrying on business in dealing in specified contracts is exempt from the application of regulation 54(1), in respect of any business in dealing in capital markets products that are specified contracts, until 8 October 2020.

(2) A person mentioned in section 99(1)(c) of the Act who was, immediately before 8 October 2018, carrying on business in dealing in specified OTC derivatives contracts is exempt from the application of regulation 54(1), in respect of any business in the regulated activity of dealing in capital markets products that are specified OTC derivatives contracts, until 8 October 2020.

[S 667/2018 wef 08/10/2018]

Exemptions for holders of capital markets services licence in respect of business in dealing in capital markets products that are specified OTC derivatives contracts, and representatives of such holders

61.—(1) A holder of a capital markets services licence to carry on business in dealing in capital markets products that are specified OTC derivatives contracts who was, immediately before 8 October 2018, carrying on business in dealing in specified OTC derivatives contracts is exempt from Division 2 of Part V of the Act and Parts III and IV of these Regulations in respect of any business in dealing in capital markets products that are specified OTC derivatives contracts, until 8 October 2020.

(2) An appointed representative of a holder of a capital markets services licence mentioned in paragraph (1) is exempt from regulations 46, 46AD and 47(1) and (2) in respect of any business in dealing in capital markets products that are specified OTC derivatives contracts, until 8 October 2020.

[S 667/2018 wef 08/10/2018]

Exemption for holders of capital markets services licence, and representatives of such holders in respect of regulated activity other than dealing in capital markets products that are specified OTC derivatives contracts

62. A person who was, immediately before 8 October 2018, a holder of a capital markets services licence is, in respect of any business in any regulated activity other than dealing in capital markets products that are specified OTC derivatives contracts, exempt —

- (a) from regulations 21(2), 35(2) and 47BA, until 8 October 2019;
- (b) from regulations 16(3), until 8 April 2020; and
- (c) from regulations 16(1)(b)(ii)(B)(BB) and (ba)(i)(B)(BB) and (5), 17(3), (4) and (5), 18(2), 18A, 20A, 26(1)(a)(i)(B)(BB) and (5), 27A, 34(2), 34A, 39(1)(da),

(e)(v), (vi) and (k) and (2)(ba), (bb) and (bc), 40(1B) and 47DA, until 8 October 2020.

[S 667/2018 wef 08/10/2018]

Exemption for exempt persons in respect of regulated activity other than dealing in capital markets products that are specified contracts

63. Despite regulation 54(1), a person mentioned in section 99(1)(a) or (b) of the Act is, in respect of any business in any regulated activity other than dealing in capital markets products that are specified contracts, exempt —

- (a) from regulation 35(2) and 47BA, until 8 October 2019; and
- (b) from regulations 26(1)(a)(i)(B)(BB) and (5), 27A, 34(2), 34A, 39(1)(da), (e)(v), (vi) and (k) and (2)(ba), (bb) and (bc), 40(1B), 47DA and 54B, until 8 October 2020.

[S 667/2018 wef 08/10/2018]

Exemption for exempt persons under section 99(1)(c) of Act in respect of regulated activity other than dealing in capital markets products that are specified OTC derivatives contracts

64. Despite regulation 54(1), a person mentioned in section 99(1)(c) of the Act is, in respect of any business any regulated activity other than dealing in capital markets products that are specified OTC derivatives contracts, exempt —

- (a) from regulation 47BA, until 8 October 2019; and
- (b) from regulations 26(1)(a)(i)(B)(BB) and (5), 27A, 34(2), 34A, 39(1)(da), (e)(v), (vi) and (k) and (2)(ba), (bb) and (bc), 40(1B), 47DA and 54B, until 8 October 2020.

[S 667/2018 wef 08/10/2018]

Exemptions for foreign companies

65.—(1) A foreign company that, immediately before 8 October 2018, was carrying on business in dealing in specified OTC derivatives contracts under an arrangement between the foreign company and a related corporation of the foreign company is exempt from section 82(1) of the Act in respect of carrying on business in

dealing in capital markets products that are specified OTC derivatives contracts under that arrangement, if the following conditions are satisfied:

- (a) the related corporation is —
 - (i) a holder of a capital markets services licence; or
 - (ii) a person mentioned in section 99(1)(a), (b) or (c) of the Act;
- (b) the foreign company carries on business in dealing in specified OTC derivatives contracts only with accredited investors, institutional investors or expert investors;
- (c) the foreign company is subject to regulatory oversight by a foreign regulatory authority in the jurisdiction where the foreign company carries on business in dealing in specified OTC derivatives contracts.

(2) A foreign company that, immediately before 8 October 2018, was carrying on business in dealing in specified FX contracts under an arrangement between the foreign company and a related corporation of the foreign company is exempt from section 82(1) of the Act in respect of carrying on business in dealing in capital markets products that are specified FX contracts under that arrangement, if the following conditions are satisfied:

- (a) the related corporation is a person mentioned in section 99(1)(a) or (b) of the Act;
- (b) the foreign company carries on business in dealing in specified FX contracts only with accredited investors, institutional investors or expert investors;
- (c) the foreign company is subject to regulatory oversight by a foreign regulatory authority in the jurisdiction where the foreign company carries on business in dealing in specified FX contracts.

(3) A foreign company that, immediately before 8 October 2018, was carrying on business in dealing in capital markets products that are units in a collective investment scheme under an arrangement between the foreign company and a related corporation of the foreign

company that was approved by the Monetary Authority of Singapore under paragraph 11 of the First Schedule to the Financial Advisers Act (Cap. 110) is exempt from section 82(1) of the Act in respect of carrying on business in dealing in capital markets products that are units in a collective investment scheme under that arrangement, if the following conditions are satisfied:

- (a) the related corporation of the foreign company is —
 - (i) a licensed financial adviser under the Financial Advisers Act; or
 - (ii) a person exempt from holding a financial adviser's licence under section 23(1)(a), (b), (c), (d) or (e) of the Financial Advisers Act;
- (b) the foreign company carries on business in dealing in capital markets products that are units in a collective investment scheme only with accredited investors, institutional investors or expert investors;
- (c) the foreign company is subject to regulatory oversight by a foreign regulatory authority in the jurisdiction where the foreign company carries on business in dealing in units in a collective investment scheme.

[S 667/2018 wef 08/10/2018]

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]

SECOND SCHEDULE — *continued***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,

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]

“block futures contract” means a futures contract which is —

(a) privately negotiated between 2 parties in accordance with the business rules or practices of an organised market; and

(b) entered into between those 2 parties in accordance with the business rules or practices of that organised market;

[S 667/2018 wef 08/10/2018]

“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 products as a market-maker; and

[S 667/2018 wef 08/10/2018]

SECOND SCHEDULE — *continued*

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

[*Deleted by S 667/2018 wef 08/10/2018*]

“designated products” 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;

[S 667/2018 wef 08/10/2018]

“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, being a unit that is —

- (a) listed for quotation, or has received approval in-principle for listing and quotation, on any approved exchange; and

[S 667/2018 wef 08/10/2018]

- (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;

[S 667/2018 wef 08/10/2018]

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

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

[*Deleted by S 667/2018 wef 08/10/2018*]

“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;

SECOND SCHEDULE — *continued*

“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 products for its own account; and

[S 667/2018 wef 08/10/2018]

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

[S 667/2018 wef 08/10/2018]

“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]

SECOND SCHEDULE — *continued*

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

[S 667/2018 wef 08/10/2018]

“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;

“qualified investor” means —

(a) an accredited investor, other than —

- (i) one who is a participant in a collective investment scheme mentioned in paragraph (b);
- (ii) one who is a holder of a unit in a closed-end fund or in an arrangement mentioned in paragraph (aa) of the definition of “closed-end fund” in section 2(1) of the Act as mentioned in paragraph (c);
- (iii) one which is a corporation mentioned in section 4A(1)(a)(ii) of the Act or an entity mentioned in regulation 3(c) of the Securities and Futures (Classes of Investors) Regulations 2018 (G.N. No. S 665/2018) —
 - (A) which is related to or controlled by a person exempted from the requirement to hold a capital markets services licence to carry on business in fund management under paragraph 5(1)(i), or a key officer or substantial shareholder of such person; and
 - (B) the shares or debentures of which are, after 28 May 2008, the subject of an offer or invitation for subscription 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 28 May 2008, the subject of an offer or invitation made to any person who is not an accredited investor;

SECOND SCHEDULE — *continued*

- (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, to institutional investors, or to both accredited investors and institutional investors; or
 - (ii) elsewhere if, after 28 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), to institutional investors, or to both accredited investors and institutional investors;
- (c) a closed-end fund or an arrangement mentioned in paragraph (aa) of the definition of “closed-end fund” in section 2(1) of the Act, 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), to institutional investors, or to both accredited investors and institutional investors;
- (d) an institutional investor, other than a collective investment scheme; or
- (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), of institutional investors, or of both accredited investors and institutional investors;

[S 667/2018 wef 08/10/2018]

“quote” means to display or provide on an approved exchange information concerning the particular prices or particular consideration at which offers or invitations to sell, purchase or exchange issued specified products are made on an organised market of that approved exchange, 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 specified products;

[S 667/2018 wef 08/10/2018]

SECOND SCHEDULE — *continued*

“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 Payment Services Act 2019 (Act 2 of 2019), the Penal Code (Cap. 224), the Financial Advisers Act (Cap. 110), or any subsidiary legislation made under any of these Acts;

[S 844/2019 wef 28/01/2020]

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

[S 667/2018 wef 08/10/2018]

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

“specified exchange-traded derivatives contract” means an exchange-traded derivatives contract that is not a futures contract;

[S 667/2018 wef 08/10/2018]

“structured warrant” means a derivatives contract issued by a financial institution —

- (a) of which the underlying thing —
 - (i) is not the credit of that financial institution; and
 - (ii) is not a financial instrument issued by that financial institution; and
- (b) which gives the holder of the derivatives contract —
 - (i) the right to purchase the underlying thing from the financial institution;

SECOND SCHEDULE — *continued*

- (ii) the right to sell the underlying thing to the financial institution; or
- (iii) the right to receive from the financial institution a cash payment calculated by reference to fluctuations in the value or price of the underlying thing.

[S 667/2018 wef 08/10/2018]

[Deleted by S 667/2018 wef 08/10/2018]

Exemption from requirement to hold capital markets services licence to deal in capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts

2.—(1) The following persons shall be exempted from the requirement to hold a capital markets services licence to carry on business in dealing in capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts, subject to the conditions and restrictions specified:

- (a) a person when carrying on business in dealing in capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts 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 capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts;

[S 667/2018 wef 08/10/2018]

- (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, units in a collective investment scheme or specified exchange-traded derivatives contracts that are not quoted on an approved exchange;

[S 667/2018 wef 08/10/2018]

- (v) a corporation or firm licensed or registered to carry on business in dealing in capital markets products that are securities, units

SECOND SCHEDULE — *continued*

in a collective investment scheme or specified exchange-traded derivatives contracts under the laws of a jurisdiction outside Singapore, but only in relation to securities, units in a collective investment scheme or specified exchange-traded derivatives contracts that are not quoted on an approved exchange; or

[S 667/2018 wef 08/10/2018]

(vi) the Central Depository (Pte) Ltd pursuant to its specified products borrowing and lending facility;

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

[S 667/2018 wef 08/10/2018]

(b) a person whose dealing in capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts is solely incidental to his carrying on business in —

(i) fund management;

(ii) providing custodial services; or

[S 667/2018 wef 08/10/2018]

(iii) product financing;

[S 667/2018 wef 08/10/2018]

(c) *[Deleted by S 667/2018 wef 08/10/2018]*

(d) the Central Depository (Pte) Ltd in respect of its dealing in capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts —

(i) that is solely incidental to its business of providing depository services for securities, units in a collective investment scheme or specified exchange-traded derivatives contracts; or

[S 667/2018 wef 08/10/2018]

(ii) that is done by reason only of its entering into a transaction pursuant to its specified products borrowing and lending facility, and in compliance with conditions specified in writing by the Authority;

[S 667/2018 wef 08/10/2018]

SECOND SCHEDULE — *continued*

- (e) a person when carrying on business in dealing in bonds with —
- (i) an accredited investor, expert investor or institutional investor;
or
[S 667/2018 wef 08/10/2018]
 - (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, units in a collective investment scheme or specified exchange-traded derivatives contracts on behalf of a customer as nominee, provided that such corporation —
- (i) has no interest in the securities, units in a collective investment scheme or specified exchange-traded derivatives contracts subscribed for other than as a bare trustee; and
[S 667/2018 wef 08/10/2018]
 - (ii) is a wholly-owned subsidiary of —
 - (A) the holder of a capital markets services licence to deal in capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts;
[S 667/2018 wef 08/10/2018]
 - (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) an approved exchange;
[S 667/2018 wef 08/10/2018]
 - (F) an approved holding company;
[S 667/2018 wef 08/10/2018]
 - (G) an approved clearing house;
[S 667/2018 wef 08/10/2018]
- (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 —

SECOND SCHEDULE — *continued*

- (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 capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivative contracts, whose dealing in such capital markets products is solely incidental to the management and administration of such arrangement;

[S 667/2018 wef 08/10/2018]

- (i) a designated market-maker when carrying on business in dealing in capital markets products that are designated products for its own account or for the account of any of its related corporations;

[S 667/2018 wef 08/10/2018]

- (j) a financial adviser licensed under the Financial Advisers Act, or a person who is exempted under section 23 or 100 of that Act from holding a financial adviser's licence, when dealing in capital markets products that are specified products other than OTC derivatives contracts by passing on an order to purchase or sell any specified product (other than an OTC derivatives contract) on behalf of a customer to whom the financial adviser or the person provides a financial advisory service mentioned in paragraph 1 or 2 of the Second Schedule to that Act (whether or not the customer relies on the advice given as part of the financial advisory service) to —

SECOND SCHEDULE — *continued*

- (i) a holder of a capital markets services licence for dealing in capital markets products that are specified products other than OTC derivatives contracts; or
- (ii) a person exempted under section 99(1)(a) or (b) of the Act, who carries on business in dealing in capital markets products that are specified products other than OTC derivatives contracts;

[S 667/2018 wef 08/10/2018]

- (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, are 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 capital markets products being —

- (A) units of that scheme or the underlying capital markets products 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

[S 667/2018 wef 08/10/2018]

- (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 capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts;

[S 667/2018 wef 08/10/2018]

- (BB) an exempt person in respect of dealing in capital markets products that are units of any collective investment scheme;

[S 667/2018 wef 08/10/2018]

- (BC) [*Deleted by S 667/2018 wef 08/10/2018*]

- (BD) [*Deleted by S 667/2018 wef 08/10/2018*]

SECOND SCHEDULE — *continued*

(l) a person carrying on business in dealing in capital markets products that are units in a collective investment scheme for a customer who is —

- (i) an institutional investor;
- (ii) a related corporation of the person; or
- (iii) a connected person of the person;

[S 667/2018 wef 08/10/2018]

(m) a corporation that carries on business in fund management, when dealing in capital markets products that are units of a collective investment scheme that is managed by the corporation or any of its related corporations;

[S 667/2018 wef 08/10/2018]

(n) a person carrying on business in dealing in capital markets products that are units in a collective investment scheme —

- (i) the property of which does not include any capital markets products; and
- (ii) all of the participants of which are qualified investors.

[S 667/2018 wef 08/10/2018]

(2) A person who is exempted under sub-paragraph (1)(j) must —

(a) comply with regulations 39(3), 44, 46, 46A and 47 as if the person were a holder of a capital markets services licence;

(b) before passing on any order on behalf of a customer —

- (i) provide a written disclosure to the customer on the potential risks associated with the purchase or sale of the specified product;
- (ii) obtain the customer's written acknowledgment of the written disclosure; and
- (iii) maintain a record of the written acknowledgment received from the customer in the English language;

(c) where the person is licensed as a financial adviser under the Financial Advisers Act, or exempt from holding a financial adviser's licence under section 23(1)(f) of that Act, and the person receives any customer's money or property other than for services rendered by the person, hand over such money or property to —

SECOND SCHEDULE — *continued*

- (i) (where the specified products are units in a collective investment scheme) the manager or trustee of the collective investment scheme or any person who is authorised by the manager or the trustee of the collective investment scheme to receive client's money or property on the manager's or trustee's behalf;
- (ii) a holder of a capital markets services licence to provide custodial services who is authorised by the customer to receive the customer's money or property; or
- (iii) a person exempt under paragraph 6 of this Schedule from holding a capital markets services licence for providing custodial services who is authorised by the customer to receive the customer's money or property,

no later than the business day immediately following the day on which the person receives the money or property, or (with the customer's prior written consent) any later day; and

- (d) where the person is licensed as a financial adviser under the Financial Advisers Act, or exempt from holding a financial adviser's licence under section 23(1)(f) of that Act, not receive money in the form of cash or any cheque made payable to a person other than a person mentioned in sub-paragraph (c)(i), (ii) or (iii), except where the money is paid for services rendered by the person or the person's representative.

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

[S 667/2018 wef 08/10/2018]

Exemption from requirement to hold capital markets services licence to deal in capital markets products that are futures contracts

3.—(1) The following persons shall be exempted from the requirement to hold a capital markets services licence to carry on business in dealing in capital markets products that are futures contracts, subject to the conditions and restrictions specified:

- (a) a person when carrying on business in dealing in capital markets products that are 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]

[S 667/2018 wef 08/10/2018]

SECOND SCHEDULE — *continued*

- (b) a person whose dealing in capital markets products that are futures contracts is solely incidental to his carrying on business in fund management;

[S 667/2018 wef 08/10/2018]

- (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 deal in capital markets products that are futures contracts;

[S 667/2018 wef 08/10/2018]

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

- (iii) he has been convicted of a relevant offence;

- (d) a corporation which —

- (i) has a place of business in Singapore (whether or not the corporation is formed, incorporated or existing in Singapore);

- (ii) carries on business in Singapore in dealing in capital markets products that are block futures contracts with accredited investors, expert investors, or institutional investors;

- (iii) does not carry any customer's positions, margin or account in its books;

- (iv) does not accept money or assets from any customer as settlement of, margin for, as a guarantee for, or as security for, any block futures contract;

- (v) is not, whether as principal or agent, a party to any block futures contract;

- (vi) does not have the right to enter an order on any approved exchange or recognised market operator;

- (vii) does not have the right to clear or settle a trade on any approved clearing house or recognised clearing house;

- (viii) is a fit and proper person to carry on business in dealing in capital markets products that are block futures contracts;

- (ix) all the representatives of whom are fit and proper persons to carry on business in dealing in capital markets products that are block futures contracts; and

SECOND SCHEDULE — *continued*

(x) is not a holder of a capital markets services licence;

[S 667/2018 wef 08/10/2018]

(e) a corporation exempted under section 7(6) or (7) of the Act from the requirement under section 7(1) of the Act to be an approved exchange or a recognised market operator, whose dealing in capital markets products that are futures contracts is solely incidental to its operation of an organised market.

[S 667/2018 wef 08/10/2018]

(2) An individual otherwise exempted under sub-paragraph (1)(a), (b) or (c), is not exempted or ceases to be exempted if the individual —

(a) is or becomes a representative or employee of the holder of a capital markets services licence to deal in capital markets products that are futures contracts;

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

(c) has been convicted of, or is convicted of, a relevant offence.

[S 667/2018 wef 08/10/2018]

(3) A corporation otherwise exempted under sub-paragraph (1)(d) is not exempted or ceases to be exempted if —

(a) the corporation ceases to meet the conditions specified in sub-paragraph (1)(d);

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

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

(d) 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;

(e) 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;

SECOND SCHEDULE — *continued*

- (f) the corporation or its substantial shareholder has been convicted of, or is convicted of, a relevant offence;
- (g) the corporation is not able to pay its debts in full as they fall due;
- (h) the value of the corporation's assets are less than the value of the corporation's liabilities (including contingent liabilities);
- (i) the corporation is granted a capital markets services licence in respect of any regulated activity; or
- (j) the corporation does not carry on business in dealing in capital markets products that are block futures contracts for a continuous period of 6 months.

[S 667/2018 wef 08/10/2018]

- (4) A corporation which is exempted under sub-paragraph (1)(d) must —
- (a) take reasonable measures to verify that its customers, on whose behalf it carries on business in dealing in capital markets products that are block futures contracts, are accredited investors, expert investors or institutional investors;
 - (b) ensure that proper records are kept of any document evidencing the status of its customers;
 - (c) lodge with the Authority —
 - (i) where the corporation commences a business of dealing in capital markets products that are block futures contracts on or after 8 October 2018, a notice of commencement of business in Form 30 not later than 14 days after the commencement of the business;
 - (ii) where immediately before 8 October 2018, the corporation carries on business in dealing in block futures contracts, a notice of commencement of business in Form 30 not later than 8 October 2020;
 - (iii) a notice of change in particulars in Form 31 providing any change in particulars provided in the notice under sub-paragraph (i) or (ii), not later than 14 days after the date of the change;
 - (iv) a notice of cessation of business in Form 32 not later than 14 days after the cessation of its business of dealing in capital markets products that are block futures contracts; and

SECOND SCHEDULE — *continued*

- (v) an annual declaration in Form 33 within 14 days after the end of each of its financial years;
- (d) immediately notify the Authority if —
 - (i) the corporation no longer meets any of the requirements mentioned in sub-paragraph (1)(d);
 - (ii) the corporation is not able to pay its debts in full as they fall due; or
 - (iii) the value of the corporation's assets are less than the value of the corporation's liabilities (including contingent liabilities);
- (e) in respect of each financial year —
 - (i) prepare a true and fair profit and loss account and a balance-sheet made up to the last day of the financial year; and
 - (ii) lodge with the Authority, within 5 months after the end of the financial year or such later date allowed by the Authority, that account and balance-sheet, together with a certification from its auditor that —
 - (A) the corporation meets the conditions specified in sub-paragraph (1)(d);
 - (B) is able to pay its debts in full as they fall due; and
 - (C) the value of the corporation's assets are not less than the value of the corporation's liabilities (including contingent liabilities);
- (f) provide the Authority with all information that the Authority may reasonably require concerning the corporation's business of dealing in capital markets products that are block futures contracts; and
- (g) employ at least 2 persons in Singapore, each of whom has at least 5 years' experience that is relevant to its business of dealing in capital markets products that are block futures contracts.

[S 667/2018 wef 08/10/2018]

Exemption from requirement to hold capital markets services licence to deal in capital markets products that are OTC derivatives contracts

3A.—(1) The following persons are exempt from the requirement to hold a capital markets services licence to carry on business in dealing in capital markets products that are OTC derivatives contracts, subject to the conditions and restrictions specified:

SECOND SCHEDULE — *continued*

- (a) a person who carries on business in dealing in capital markets products that are OTC derivatives contracts —
- (i) for —
 - (A) his own account; or
 - (B) an account belonging to and maintained wholly for the benefit of a related corporation; and
 - (ii) with —
 - (A) a related corporation;
 - (B) a holder of a capital markets services licence to deal in capital markets products that are OTC derivatives contracts;
 - (C) a bank licensed under the Banking Act;
 - (D) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act;
 - (E) a bank licensed, registered, approved or otherwise regulated under the laws of a jurisdiction outside Singapore to conduct banking business; or
 - (F) a corporation or firm licensed or registered to carry on business in dealing in capital markets products that are OTC derivatives contracts under the laws of a jurisdiction outside Singapore; and
 - (iii) in the case of dealing in capital markets products that are OTC derivatives contracts with persons mentioned in sub-paragraph (ii)(B) to (F), does not receive a spread or other remuneration (including any incentive, benefit or reward, whether monetary or otherwise) in connection with such dealing;
- (b) a person who carries on business in dealing in capital markets products that are OTC derivatives contracts of which the underlying thing is a commodity, with accredited investors, expert investors, or institutional investors only;
- (c) a person whose dealing in capital markets products that are OTC derivatives contracts is solely incidental to his carrying on business in fund management;

SECOND SCHEDULE — *continued*

- (d) a corporation which —
- (i) has a place of business in Singapore (whether or not the corporation is formed, incorporated or existing in Singapore);
 - (ii) only carries on business in Singapore in dealing in capital markets products that are OTC derivatives contracts with accredited investors, expert investors, or institutional investors;
 - (iii) does not carry any customer's positions, margin or account in its books;
 - (iv) does not accept money or assets from any customer as settlement of, margin for, as a guarantee for, or as security for, any OTC derivatives contract;
 - (v) is not, whether as principal or agent, a party to any OTC derivatives contract;
 - (vi) does not have the right to enter an order on any approved exchange or recognised market operator;
 - (vii) does not have the right to clear or settle a trade on any approved clearing house or recognised clearing house;
 - (viii) is a fit and proper person to carry on business in dealing in capital markets products that are OTC derivatives contract;
 - (ix) all the representatives of whom are fit and proper persons to carry on business in dealing in capital markets products that are OTC derivatives contract; and
 - (x) is not a holder of a capital markets services licence;
- (e) an approved global trading company which carries on business in dealing in capital markets products that are OTC derivatives contracts of which every underlying thing is a commodity;
- (f) a corporation which —
- (i) enters any OTC derivatives contract on behalf of a customer as nominee;
 - (ii) has no interest in the OTC derivatives contract other than as a bare trustee; and
 - (iii) is a wholly-owned subsidiary of —
 - (A) a holder of a capital markets services licence to deal in capital markets products that are OTC derivatives contracts;

SECOND SCHEDULE — *continued*

- (B) a bank licensed under the Banking Act;
 - (C) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act;
 - (D) a finance company licensed under the Finance Companies Act;
 - (E) an approved exchange;
 - (F) an approved holding company; or
 - (G) an approved clearing house;
- (g) a trustee of a qualified arrangement in respect of OTC derivatives contracts, whose dealing in capital markets products that are OTC derivatives contracts is solely incidental to its management and administration of such arrangement;
- (h) a corporation exempted from section 7(1) of the Act under section 7(6) or (7) of the Act, whose dealing in capital markets products that are OTC derivatives contracts is solely incidental to its operation of an organised market.
- (2) An individual otherwise exempted under sub-paragraph (1)(a), (b), (c) or (g) is not, or ceases to be, exempted if the individual —
- (a) is or becomes a representative or employee of the holder of a capital markets services licence to deal in capital markets products that are OTC derivatives contracts;
 - (b) is or becomes an undischarged bankrupt whether in Singapore or elsewhere; or
 - (c) has been convicted of, or is convicted of, a relevant offence.
- (3) A corporation otherwise exempted under sub-paragraph (1)(d) is not, or ceases to be, exempted if —
- (a) the corporation ceases to meet the conditions specified in sub-paragraph (1)(d);
 - (b) the corporation or its substantial shareholder is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
 - (c) execution against the corporation or its substantial shareholder in respect of a judgment debt has been returned unsatisfied in whole or in part;
 - (d) a receiver, a receiver and manager, a judicial manager or such other person having the powers and duties of a receiver, receiver and

SECOND SCHEDULE — *continued*

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;

- (e) 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;
 - (f) the corporation or its substantial shareholder has been convicted of, or is convicted of, a relevant offence;
 - (g) the corporation is not able to pay its debts in full as they fall due;
 - (h) the value of the corporation's assets is less than the value of the corporation's liabilities (including contingent liabilities);
 - (i) the corporation is granted a capital markets services licence in respect of any regulated activity; or
 - (j) the corporation does not carry on business in dealing in capital markets products that are OTC derivatives contract for a continuous period of 6 months.
- (4) A corporation which is exempted under sub-paragraph (1)(d) must —
- (a) take reasonable measures to verify that its customers, on whose behalf it carries on business in dealing in capital markets products that are OTC derivatives contracts, are accredited investors, expert investors, or institutional investors only;
 - (b) ensure that proper records are kept of any document evidencing the status of its customers;
 - (c) lodge with the Authority —
 - (i) where the corporation commences a business in dealing in capital markets products that are OTC derivatives contracts on or after 8 October 2018, a notice of commencement of business in Form 30 not later than 14 days after the commencement of the business;
 - (ii) where, immediately before 8 October 2018, the corporation carries on business in dealing in OTC derivatives contracts, a notice of commencement of business in Form 30 not later than 8 October 2020;
 - (iii) a notice of change in particulars in Form 31 providing any change in particulars provided in the notice under

SECOND SCHEDULE — *continued*

sub-paragraph (i) or (ii), not later than 14 days after the date of the change;

- (iv) a notice of cessation of business in Form 32 not later than 14 days after the cessation of its business in dealing in capital markets products that are OTC derivatives contracts;
- (v) an annual declaration in Form 33 within 14 days after the end of each of its financial years;
- (d) immediately notify the Authority if —
 - (i) the corporation no longer meets any of the requirements mentioned in sub-paragraph (1)(d);
 - (ii) the corporation is not able to pay its debts in full as they fall due; or
 - (iii) the value of the corporation's assets are less than the value of the corporation's liabilities (including contingent liabilities);
- (e) in respect of each financial year —
 - (i) prepare a true and fair profit and loss account and a balance-sheet made up to the last day of the financial year; and
 - (ii) lodge with the Authority, within 5 months after the end of the financial year or such later date allowed by the Authority, that account and balance-sheet, together with a certification from its auditor that —
 - (A) the corporation meets the conditions mentioned in sub-paragraph (1)(d);
 - (B) is able to pay its debts in full as they fall due; and
 - (C) the value of the corporation's assets are not less than the value of the corporation's liabilities (including contingent liabilities);
- (f) provide the Authority with all information that the Authority may reasonably require concerning the corporation's business of dealing in capital markets products that are OTC derivatives contracts; and
- (g) employ at least 2 persons in Singapore, each of whom has at least 5 years' experience that is relevant to its business of dealing in capital markets products that are OTC derivatives contracts.

(5) A corporation which is exempted under sub-paragraph (1)(b) or (e) must provide the Authority with all information that the Authority may reasonably

SECOND SCHEDULE — *continued*

require concerning the corporation's business of dealing in capital markets products that are OTC derivatives contracts.

[S 667/2018 wef 08/10/2018]

Exemption from requirement to hold capital markets services licence to deal in capital markets products that are spot foreign exchange contracts for the purposes of 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 dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading, subject to the conditions and restrictions specified:

- (a) a person who carries on business in dealing in capital markets products that are spot foreign exchange contracts for the purposes of 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 dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading;

[S 667/2018 wef 08/10/2018]

- (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 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 dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading under the laws of a jurisdiction outside Singapore;

[S 667/2018 wef 08/10/2018]

SECOND SCHEDULE — *continued*

- (b) a person whose dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading is solely incidental to his carrying on business in fund management.

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

[S 667/2018 wef 08/10/2018]

- (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 dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading other than in accordance with sub-paragraph (1)(a) or (b).

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

[S 667/2018 wef 08/10/2018]

- (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 deal in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading;

[S 667/2018 wef 08/10/2018]

- (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

SECOND SCHEDULE — *continued*

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]

(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]*

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 capital markets products or spot foreign exchange contracts 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

SECOND SCHEDULE — *continued*

- (iii) beneficially owned by any person, other than the first-mentioned or second-mentioned corporation;

[S 667/2018 wef 08/10/2018]

- (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 capital markets products or spot foreign exchange contracts 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]

[S 667/2018 wef 08/10/2018]

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

- (e) the holder of a capital markets services licence to deal in capital markets products that are futures contracts which carries on business in fund management in accordance with regulation 20;

[S 667/2018 wef 08/10/2018]

- (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 —

- (A) licensed under the Financial Advisers Act in respect of the provision of the financial advisory services specified in paragraph 1 of the Second Schedule to the Act;

SECOND SCHEDULE — *continued*

(B) exempted under section 23 of the Financial Advisers Act;
or

(C) exempted under section 100 of the Financial Advisers Act from section 6 of that Act in respect of the provision of the financial advisory services specified in paragraph 1 of the Second Schedule to that Act; and

[S 667/2018 wef 08/10/2018]

(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 investment scheme, whether or not the person relies on the financial adviser's advice 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;

[S 667/2018 wef 08/10/2018]

(B) in carrying on business in fund management for or on behalf of the client, the financial adviser obtains the prior approval of the client in respect of every transaction entered into for or on behalf of the client, other than a transaction for the purpose of periodically rebalancing the units of a client's portfolio;

[S 667/2018 wef 08/10/2018]

(BA) in carrying on business in fund management for or on behalf of the client and in respect of transactions for the purpose of periodically rebalancing the units of a client's portfolio, the financial adviser —

(AA) has provided information to the client in accordance with sub-paragraph (1A);

(BB) has obtained the written approval of the client to periodically enter into transactions for the purpose of periodically rebalancing the units of the client's portfolio in accordance with the information provided under sub-paragraph (AA);

(CC) prior to each transaction for the purpose of periodically rebalancing the units of a client's portfolio, notifies the

SECOND SCHEDULE — *continued*

client in writing of the financial adviser's intention to enter into that transaction; and

- (DD) enters only into transactions to which the client's most recent written approval obtained under sub-paragraph (BB) relates;

[S 667/2018 wef 08/10/2018]

- (BC) the financial adviser only receives the client's money or property in respect of transactions entered into and services rendered by the financial adviser that have been approved by the client in accordance with sub-paragraph (B) or (BA); and

[S 667/2018 wef 08/10/2018]

- (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, or any person who is authorised by the manager or trustee of the collective investment scheme to receive a customer's money or property on its behalf;

[S 667/2018 wef 08/10/2018]

- (CB) the holder of a capital markets services licence under the Act to provide custodial services which is authorised by the client to receive the client's money or property; or

[S 667/2018 wef 08/10/2018]

- (CC) a person exempt under paragraph 6 from holding a capital markets services licence to provide custodial services 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]

[S 667/2018 wef 08/10/2018]

- (h) a person who carries on business in fund management in Singapore on behalf of qualified investors where the assets managed by it comprise

SECOND SCHEDULE — *continued*

securities issued by one or more corporations or interests in bodies unincorporate, where the sole purpose of each such corporation or 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]

[S 667/2018 wef 08/10/2018]

(j) a person who carries on business in fund management in Singapore by managing the property of, or operating, a collective investment scheme —

(i) the property of which does not include any capital markets products; and

(ii) all of the participants of which are qualified investors;

[S 667/2018 wef 08/10/2018]

(k) a person who carries on business in fund management in Singapore by managing the property of, or operating, a collective investment scheme —

(i) the property of which does not include any capital markets products; and

(ii) the units of which are not the subject of any offer or invitation for subscription or purchase on or after 8 October 2018.

[S 667/2018 wef 08/10/2018]

(1A) For the purposes of paragraph 5(1)(g)(BA)(AA), the financial adviser has provided information in accordance with this paragraph if —

(a) the financial adviser has provided to the client the following information at any time before the transaction:

SECOND SCHEDULE — *continued*

- (i) the scope of activities to be undertaken by the financial adviser in connection with periodically rebalancing the units of the client's portfolio;
 - (ii) the fees payable to the financial adviser in connection with periodically rebalancing the units of the client's portfolio;
 - (iii) the frequency with which the financial adviser will periodically rebalance the units of the client's portfolio;
 - (iv) the methodology of the financial adviser in periodically rebalancing the units of the client's portfolio;
 - (v) any other material terms and conditions under which the financial adviser will periodically rebalance the units of the client's portfolio; and
- (b) the information provided under sub-paragraph (a) remains correct as at the date of the transaction.

[S 667/2018 wef 08/10/2018]

(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), (i) or (j), as the case may be;

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

[S 667/2018 wef 08/10/2018]

- (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

SECOND SCHEDULE — *continued*

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]

- (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) *[Deleted by S 667/2018 wef 08/10/2018]*

- (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, or an arrangement mentioned in paragraph (aa) of the definition of “closed-end fund” in section 2(1) of the Act, referred to in sub-paragraph (c);

[S 667/2018 wef 08/10/2018]

- (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) —

SECOND SCHEDULE — *continued*

- (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 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, or an arrangement mentioned in paragraph (aa) of the definition of “closed-end fund” in section 2(1) of the Act, 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;

[S 667/2018 wef 08/10/2018]

- (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, or an arrangement mentioned in paragraph (aa) of the definition of “closed-end fund” in section 2(1) of the Act, 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]

[S 667/2018 wef 08/10/2018]

- (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

SECOND SCHEDULE — *continued*

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 —

- (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]

SECOND SCHEDULE — *continued*

(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 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]

SECOND SCHEDULE — *continued*

(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]

(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 —

SECOND SCHEDULE — *continued*

- (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]

(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]*

SECOND SCHEDULE — *continued*

Exemption from requirement to hold capital markets services licence to provide custodial services

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, subject to the conditions and restrictions specified:

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

[S 667/2018 wef 08/10/2018]

- (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.

[S 667/2018 wef 08/10/2018]

(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.

[S 667/2018 wef 08/10/2018]

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 specified products to the public by the related corporation; and

[S 667/2018 wef 08/10/2018]

- (ii) where the related corporation is —

- (A) a public company;

SECOND SCHEDULE — *continued*

(B) listed on an approved exchange; or

[S 667/2018 wef 08/10/2018]

(C) a subsidiary of a corporation listed on an approved exchange,

such advice is not circulated to the shareholders (other than shareholders who are accredited investors, expert investors or institutional 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;

[S 667/2018 wef 08/10/2018]

(b) a person resident in Singapore who carries on business in Singapore in giving advice on corporate finance to accredited investors, expert investors or institutional investors, provided that —

(i) such advice is not specifically given for the making of any offer of specified products to the public by the accredited investor, expert investor or institutional investor to whom the advice was given; and

[S 667/2018 wef 08/10/2018]

(ii) where the accredited investor, expert investor or institutional investor is —

(A) a public company;

(B) listed on an approved exchange; or

[S 667/2018 wef 08/10/2018]

(C) a subsidiary of a corporation listed on an approved exchange,

such advice is not circulated to the shareholders (other than shareholders who are accredited investors, expert investors or institutional investors) of (in the case of sub-paragraph (A) or (B)) the accredited investor, expert investors or institutional investors 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]

[S 667/2018 wef 08/10/2018]

SECOND SCHEDULE — *continued*

(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 specified products to the public by the second-mentioned person; and

[S 667/2018 wef 08/10/2018]

(ii) where the second-mentioned person is —

(A) a public company;

(B) listed on an approved exchange; or

[S 667/2018 wef 08/10/2018]

(C) a subsidiary of a corporation listed on an approved exchange,

such advice is not circulated to the shareholders (other than shareholders who are accredited investors, expert investors or institutional 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;

[S 667/2018 wef 08/10/2018]

(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 specified products.

[S 667/2018 wef 08/10/2018]

(2) A person otherwise exempted under sub-paragraph (1)(a), (b), (c) or (d) shall not be or shall cease to be so exempted if he also carries on business in advising on corporate finance other than in accordance with sub-paragraph (1)(a), (b), (c) or (d).

[S 667/2018 wef 08/10/2018]

(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]

SECOND SCHEDULE — *continued*

- (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;
- (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.

SECOND SCHEDULE — *continued*

- (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, expert investors or institutional investors; and

[S 667/2018 wef 08/10/2018]

- (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).

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 capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts 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

SECOND SCHEDULE — *continued*

to and maintained wholly for the benefit of a corporation related to the licence holder:

- (a) dealing in capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts on an approved exchange or a recognised market operator; or

[S 667/2018 wef 08/10/2018]

- (b) dealing in capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts 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.

[S 667/2018 wef 08/10/2018]

(2) Subject to sub-paragraph (7), an employee of the holder of a capital markets services licence for dealing in capital markets products that are futures contracts shall be exempted from section 99B(1) of the Act when carrying out that regulated activity 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.

[S 667/2018 wef 08/10/2018]

(3) Subject to sub-paragraph (7), an employee of the holder of a capital markets services licence for dealing in capital markets products that are spot foreign exchange contracts for the purposes 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 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 capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading with an institutional investor; or

[S 667/2018 wef 08/10/2018]

- (b) dealing in capital markets products that are spot foreign exchange contracts for the purposes of 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.

[S 667/2018 wef 08/10/2018]

SECOND SCHEDULE — *continued*

(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 capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts 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 capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts on an approved exchange or a recognised market operator; or

[S 667/2018 wef 08/10/2018]

- (b) dealing in capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts 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.

[S 667/2018 wef 08/10/2018]

(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 dealing in capital markets products that are futures contracts 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.

[S 667/2018 wef 08/10/2018]

(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 dealing in capital markets products that are spot foreign exchange contracts for the purposes 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) dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading with an institutional investor; or

[S 667/2018 wef 08/10/2018]

SECOND SCHEDULE — *continued*

- (b) dealing in capital markets products that are spot foreign exchange contracts for the purposes of 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.

[S 667/2018 wef 08/10/2018]

(7) Sub-paragraphs (1) to (6) —

- (a) shall not apply to any activity of dealing in capital markets products which involves customer account; and

[S 667/2018 wef 08/10/2018]

- (b) shall only apply if the employee, when dealing in capital markets products —

- (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.

[S 667/2018 wef 08/10/2018]

(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 product financing or providing custodial services, be exempted from section 99B(1) of the Act, as the case may be.

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

[S 667/2018 wef 08/10/2018]

Exemption for approved holding company

9. An approved 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 approved holding company.

[S 667/2018 wef 08/10/2018]

THIRD SCHEDULE

FEES

<i>No.</i>	<i>First column Provision of Act</i>	<i>Second column Matter</i>	<i>Third column Amount</i>	<i>Fourth column Manner and time of payment</i>
				Regulation 6(1) and (6)
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 capital markets products that are 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 a GIRO arrangement with the Authority, by GIRO by the date specified by the Authority in the fee advice.
		(i) where the holder is a member of the Singapore Exchange Securities Trading Limited; or	\$8,000 + (N × \$5)	
		(ii) where the holder is any other person;	\$4,000 + (N × \$5)	
		(b) dealing in capital markets products that are units in a collective investment scheme;	\$2,000 + (N × \$5)	

THIRD SCHEDULE — *continued*

(c) dealing in capital markets products that are exchange traded derivatives contracts;	\$2,000 + (N × \$5)		
(d) dealing in capital markets products that are OTC derivatives contracts;	\$2,000 + (N × \$5)		
(e) dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading;	\$2,000 + (N × \$5)		
(f) fund management;	\$4,000 + (N × \$5)		
(g) advising on corporate finance;	\$4,000 + (N × \$5)		
(h) product financing;	\$2,000 + (N × \$5)		
(i) providing custodial services;	\$2,000 + (N × \$5)		
(j) real estate investment trust management; and	\$4,000 + (N × \$5)		
(k) providing credit rating services.	\$4,000 + (N × \$5)		
2A. Section 99A (1)	Annual fee payable by an exempt person.	N × \$5, where "N" is —	<p>(a) where the total number of appointed representatives, provisional representatives and temporary representatives who act for the exempt person and whose names are (on 1 January of the year for which the licence fee is paid) on the public register of representatives is more than 100, that number less 100; or</p> <p>(b) where the exempt person has 100 or fewer appointed representatives, provisional representatives and temporary representative on 1 January of the year for which the licence fee is paid, 0.</p>
			<p>(a) Where the exempt person has no GIRO arrangement with the Authority, in the manner specified by the Authority, by the date specified in the fee advice.</p> <p>(b) Where the exempt person has a GIRO arrangement with the Authority, by GIRO by the date specified by the Authority in the fee advice.</p>

THIRD SCHEDULE — *continued*

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	\$200	<p>(a) Where principal is an applicant for capital markets services licence, in the manner specified by the Authority, at time of lodgment.</p> <p>(b) Where principal is a holder of capital markets services licence, and —</p> <p style="margin-left: 2em;">(i) it has no GIRO arrangement with the Authority, in the manner specified by the Authority, by the date specified in the fee advice; or</p> <p style="margin-left: 2em;">(ii) it has GIRO arrangement with the Authority, by GIRO by the 16th day of the month following that in which lodgment is made.</p> <p>(a) Where principal has no GIRO arrangement with the Authority, in the manner specified by the Authority, by</p>
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:

THIRD SCHEDULE — continued

<p>(a) dealing in capital markets products; (b) fund management; (c) advising on corporate finance; (d) [<i>Deleted by S 667/2018 wef 08/10/2018</i>] (e) [<i>Deleted by S 667/2018 wef 08/10/2018</i>] (f) real estate investment trust management; or (g) providing credit rating services</p>	<p>“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) \$700 where the regulated activity or one of the regulated activities is dealing in capital markets products that are securities on behalf of a principal who is a member of the Singapore Exchange Securities Trading Limited; or (b) \$200 where the regulated activity is one of, or the regulated activities are 2 or more of, the following: (i) dealing in capital markets products that are securities on behalf of a principal who is any other person; (ii) fund management; (iii) advising on corporate finance; (iv) real estate investment trust management; (v) providing credit rating services; or (vi) dealing in capital markets products that are units in a collective investment scheme, exchange-traded derivatives contracts, OTC derivatives contracts, or spot foreign exchange contracts for the purpose of leveraged foreign exchange trading</p>	<p>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.</p>
<p>6. Section 99K (2)</p>	<p>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) Where the principal has no GIRO arrangement with the Authority, in the manner specified by the Authority, by</p>

THIRD SCHEDULE — *continued*

(a) dealing capital markets products that are securities —	(i) where the principal is a member of the Singapore Exchange Securities Trading Limited; or	(b) Where the principal has a GIRO arrangement with the Authority, by GIRO by the date specified by the Authority in the fee advice.	the date specified in the fee advice.
	(ii) where the principal is any other person;		
	(b) dealing in capital markets products that are units in a collective investment scheme;		
	(c) dealing in capital markets products that are exchange-traded derivatives contracts;		
	(d) dealing in capital markets products that are OTC derivatives contracts;		
	(e) dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading;		
	(f) fund management;		
	(g) advising on corporate finance;		
	(h) real estate investment trust management; and		
	(i) providing credit rating services,		
		\$700	
		\$200	
		\$200	
		\$200	
		\$200	
		\$200	
		\$200	
		\$200	
		\$200	
		\$200	

THIRD SCHEDULE — *continued*

7.	or where there is more than one regulated activity	the higher or highest of the relevant amounts set out above for those regulated activities	
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 —		(a) Where the principal has no GIRO arrangement with the Authority, in the manner specified by the Authority, by the date specified in the fee advice.
	(a) dealing in capital markets products that are securities —	\$700	(b) Where the principal has GIRO arrangement with the Authority, by GIRO by the 16th day of the month following that in which the name is entered in the register.
	(i) where the principal is a member of the Singapore Exchange Securities Trading Limited; or		
	(ii) where the principal is any other person;	\$200	
	(b) dealing in capital markets products that are units in a collective investment scheme;	\$200	
	(c) dealing in capital markets products that are exchange-traded derivatives contracts;	\$200	
	(d) dealing in capital markets products that are OTC derivatives contracts;	\$200	
	(e) dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading;	\$200	
	(f) fund management;	\$200	

THIRD SCHEDULE — *continued*

(g) advising on corporate finance;	\$200		
(h) real estate investment trust management; and	\$200		
(i) providing credit rating services, or where there is more than one regulated activity	\$200	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	\$200		(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: $\frac{B}{365} \times \$1,000$	where:	Payable by the date and in the manner specified by the Authority in the fee advice.

“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

THIRD SCHEDULE — continued

10.	Section 317 (2)	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.
		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 person 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.

THIRD SCHEDULE — *continued*

[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]

[S 667/2018 wef 08/10/2018]

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:

- (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);

FOURTH SCHEDULE — *continued*

- (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.

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;

FOURTH SCHEDULE — *continued*

- (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;
- (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.

FOURTH SCHEDULE — *continued*

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 —

(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);

FOURTH SCHEDULE — *continued*

“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);

“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
- 18. G. N. No. S 667/2018 — Securities and Futures (Licensing and Conduct of Business) (Amendment No. 2) Regulations 2018**
(G.N. No. S 837/2020 — Corrigenda)
Date of commencement : 8 October 2018

19. G.N. No. S 844/2019 — Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2019

Date of commencement : 28 January 2020