

SECURITIES AND FUTURES ACT
(CHAPTER 289, SECTIONS 86(3), 95(1)(c), 100, 337, 341 AND
343)

SECURITIES AND FUTURES (FINANCIAL AND MARGIN
REQUIREMENTS FOR HOLDERS OF CAPITAL MARKETS
SERVICES LICENCES) REGULATIONS

ARRANGEMENT OF REGULATIONS

PART I

PRELIMINARY

Regulation

1. Citation
2. Definitions
- 2A. Financial resources
- 2B. MAS notices
- 2C. Variation of adjusted net head office funds, financial resources or total risk requirement

PART II

BASE CAPITAL REQUIREMENT

3. Grant of licence
4. Where base capital of holder of licence falls below base capital requirement
- 4A. Exemption from regulation 4(1)

PART III

FINANCIAL RESOURCES REQUIREMENT

5. Holder of licence
- 5A. Written directions to maintain financial resources in Singapore
6. Financial resources of holder of licence not to fall below total risk requirement
7. Where financial resources of holder of licence fall below 120% of total risk requirement

PART IV

AGGREGATE INDEBTEDNESS

Regulation

15. Holder of licence
16. Where aggregate indebtedness exceeds 1,200% of aggregate resources
17. Where aggregate indebtedness exceeds 600% of aggregate resources

PART V

RESERVE FUND AND OTHER FINANCIAL REQUIREMENTS

18. [*Deleted*]
19. Maintenance of reserve fund by holder of licence which is member of approved clearing house
20. Reduction in paid-up ordinary share capital or paid-up irredeemable and non-cumulative preference share capital
21. Preference share
22. Qualifying subordinated loan
23. Making of unsecured loan or advance, payment of dividend or director's fees or increase in director's remuneration

PART VI

MARGIN REQUIREMENTS

24. Margin requirement for product financing
- 24A. Margin requirements for contracts for differences and spot foreign exchange contracts for the purposes of leveraged foreign exchange trading
- 24B. Share financing
25. Reporting of under-margined accounts by holder of licence

PART VII

LODGMET OF DOCUMENTS

26. Forms
27. Statement to be lodged in respect of regulated activities

PART VIII

PART VIIIA

MISCELLANEOUS

Regulation

28A. Offences

PART IX

29. to 36. [Repealed]
The Schedules

[1st October 2002]

PART I

PRELIMINARY

Citation

1. These Regulations may be cited as the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations.

Definitions

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

“adjusted net head office funds”, in relation to the holder of a licence, means its net head office funds after deducting the applicable items specified in —

(a) an MAS notice that applies to the holder; and

(b) if a notice referred to in regulation 2C is given to the holder, that notice;

[S 192/2013 wef 03/04/2013]

“aggregate indebtedness”, in relation to the holder of a licence, means the total liabilities of the holder, but does not include

any contingent liability of the holder or any of the following liabilities of the holder:

- (a) any amount payable on open contracts;
- (b) any amount payable to a customer of the holder in connection with moneys or assets received on account of the customer and maintained in a trust account;

[S 372/2005 wef 01/07/2005]

- (c) any deferred income tax payable;
- (d) any liability that is fully secured by assets that are not included as the financial resources of the holder, if the sole recourse of the creditor for non-payment of such liability is to such assets only;

[S 192/2013 wef 03/04/2013]

- (e) any qualifying subordinated loan; and

[S 192/2013 wef 03/04/2013]

- (f) any financial liability that has been included in the computation of financial resources;

[S 507/2006 wef 28/08/2006]

[S 192/2013 wef 03/04/2013]

“aggregate resources” means —

- (a) in relation to the holder of a licence incorporated in Singapore, the sum of the financial resources of the holder and qualifying letters of credit less the total risk requirement of the holder; and
- (b) in relation to the holder of a licence that is a foreign company, the sum of the adjusted net head office funds of the holder and qualifying letters of credit less the total risk requirement of the holder;

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

- (a) the following items in the latest account of the corporation or the holder (as the case may be):

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

[S 192/2013 wef 03/04/2013]

- (iii) reserve fund maintained under regulation 19; and

[S 507/2006 wef 28/08/2006]

- (b) any unappropriated profit or loss in the latest audited accounts of the corporation or the holder (as the case may be),

less any interim loss in the latest accounts of the corporation or the holder (as the case may be) and any dividend that has been declared since the latest audited accounts of the corporation or the holder (as the case may be);

[S 372/2005 wef 01/07/2005]

“broad-based index” means an index that satisfies the following conditions:

- (a) the index shall contain shares of at least 20 corporations;
- (b) the weighting of the largest constituent share is not greater than 20% of the index; and
- (c) the total weighting of the largest 5 constituent shares is not greater than 60% of the index;

[Deleted by S 192/2013 wef 03/04/2013]

[Deleted by S 192/2013 wef 03/04/2013]

[Deleted by S 192/2013 wef 03/04/2013]

“customer” means a person —

- (a) on whose behalf the holder of a licence carries on or will carry on any regulated activity; or

- (b) with whom the holder of a licence enters or will enter into a transaction as principal for the sale or purchase of capital markets products;

[S 668/2018 wef 08/10/2018]

“debt security” includes any debenture stock, bond and note;

[Deleted by S 192/2013 wef 03/04/2013]

[Deleted by S 192/2013 wef 03/04/2013]

“financial resources” has the meaning given to that expression in regulation 2A;

[S 192/2013 wef 03/04/2013]

[Deleted by S 192/2013 wef 03/04/2013]

[Deleted by S 668/2018 wef 08/10/2018]

[Deleted by S 192/2013 wef 03/04/2013]

[Deleted by S 192/2013 wef 03/04/2013]

“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 192/2013 wef 03/04/2013]

[Deleted by S 192/2013 wef 03/04/2013]

“licence” means a capital markets services licence granted under the Act;

“market index of a recognised group A exchange” means a broad-based index of shares listed on the recognised group A exchange;

[Deleted by S 192/2013 wef 03/04/2013]

[Deleted by S 192/2013 wef 03/04/2013]

“MAS notice” means a notice issued by the Authority under regulation 2B;

[S 192/2013 wef 03/04/2013]

“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;

“open contract” means any open purchase contract or open sale contract;

“open purchase contract” means any contract to purchase specified products which is not yet due for payment in accordance with the business rules of an approved exchange, a recognised market operator or an overseas exchange, or the terms of the contract, as the case may be;

[S 668/2018 wef 08/10/2018]

“open sale contract” means any contract to sell specified products which are not yet due for delivery in accordance with the business rules of an approved exchange, a recognised market operator or an overseas exchange, or the terms of the contract, as the case may be;

[S 668/2018 wef 08/10/2018]

[Deleted by S 192/2013 wef 03/04/2013]

[Deleted by S 668/2018 wef 08/10/2018]

“qualifying letter of credit” means any legally enforceable and irrevocable letter of credit that is —

- (a) made in favour of the approved exchange or approved clearing house (as the case may be) of which the holder of the licence concerned is a member;

[S 463/2013 wef 01/08/2013]

- (b) issued by a bank approved by, and in a form acceptable to, the approved exchange or approved clearing house; and

[S 463/2013 wef 01/08/2013]

- (c) subject to such conditions or restrictions as the Authority, or the approved exchange or approved clearing house, may impose on the holder,

[S 463/2013 wef 01/08/2013]

but does not include any letter of credit provided by the holder to the approved exchange or approved clearing house to satisfy the business rules or other requirements of the approved exchange or approved clearing house;

[S 192/2013 wef 03/04/2013]

[S 463/2013 wef 01/08/2013]

“qualifying subordinated loan” means a subordinated loan the terms of which are evidenced by a subordinated loan agreement between the holder of the licence concerned and a lender (referred to in this definition as the subordinated creditor) which expressly provides all of the following:

- (a) the subordinated loan has not less than 2 years to maturity at the time the loan is first drawn down;
- (b) that the subordinated creditor shall not claim or receive from the holder, by way of set-off or in any other manner, any subordinated loan repayment until after every senior debt has been paid or unless the

holder has obtained the prior written approval of the Authority;

- (c) that the claims of the subordinated creditor are fully subordinated to the claims of all senior creditors;
- (d) an option for the holder to defer interest payment on the principal amount of the subordinated loan;
- (e) that the subordinated loan shall automatically be converted into capital to provide a cushion for losses to creditors if an appropriate reconstruction of the capital of the holder which is acceptable to the Authority has not been undertaken;
- (f) that, in the event of any payment or distribution of assets of the holder, whether in cash, in kind or in specified products (referred to in this definition as a distribution), upon any dissolution, winding-up, liquidation or reorganisation of the holder —
 - (i) the senior creditors shall first be entitled to receive payment in full of the senior debts before the subordinated creditor receives any payment in respect of the subordinated debt; and
 - (ii) any distribution to which the subordinated creditor would be entitled but for the provisions of the subordinated loan agreement shall be made by the liquidator, Official Assignee in bankruptcy or any other person making the distribution directly to the senior creditors rateably according to their senior debts until they have been paid in full (taking into account other distributions to the senior creditors);

[S 668/2018 wef 08/10/2018]

- (g) a term that if, notwithstanding paragraphs (b) to (f), any distribution is received by the subordinated creditor in respect of the subordinated debt, the

distribution shall be paid over to the senior creditors for application rateably according to their senior debts until they have been paid in full (taking into account other distributions to the senior creditors) and, until such payment has been made in full, the distribution shall be held in trust for the senior creditors;

- (h) such terms as may be specified in the business rules of an approved exchange or approved clearing house of which the holder is a member;

[S 463/2013 wef 01/08/2013]

- (i) that no subordinated creditor may demand the early or accelerated repayment of the subordinated loan;
- (j) that the subordinated loan agreement is not subject to any cross-default or negative pledge;
- (k) such other criteria as may be specified in or imposed by —
- (i) an MAS notice applicable to the holder;
 - (ii) any notice given to the holder by the Authority; and
 - (iii) an approved exchange or approved clearing house of which the holder is a member;

[S 463/2013 wef 01/08/2013]

[S 192/2013 wef 03/04/2013]

“recognised group A exchange” means an overseas exchange regulated by a financial services regulatory authority of a country or territory specified under the heading “*Country or Territory of Group A Exchanges*” in Table 4 of the Fourth Schedule;

[S 668/2018 wef 08/10/2018]

“recognised group B exchange” means an overseas exchange regulated by a financial services regulatory authority of a country or territory specified under the heading “*Country or*

Territory of Group B Exchanges” in Table 4 of the Fourth Schedule;

[S 668/2018 wef 08/10/2018]

“senior creditor”, in relation to a qualifying subordinated loan, means a creditor to whom a senior debt is owed;

[S 192/2013 wef 03/04/2013]

“senior debt”, in relation to a qualifying subordinated loan, means a debt of the holder of the licence concerned that is outstanding at any time during the period in which the qualifying subordinated loan is outstanding;

[S 192/2013 wef 03/04/2013]

[Deleted by S 192/2013 wef 03/04/2013]

“total risk requirement” means the amount required to address risks arising from the activities of the holder of a licence, being —

- (a) such amount as specified in or computed in accordance with an MAS notice that applies to the holder;
- (b) if a notice referred to in regulation 2C is given to the holder to substitute the amount referred to in paragraph (a) with another amount specified in or computed in accordance with that notice, the second-mentioned amount; or
- (c) if a notice referred to in regulation 2C is given to the holder to supplement the amount referred to in paragraph (a) with another amount specified in or computed in accordance with that notice, the aggregate of both those amounts;

[S 192/2013 wef 03/04/2013]

[S 588/2017 wef 20/10/2017]

“venture capital fund” has the same meaning as in regulation 14(8) of the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg 10);

[S 588/2017 wef 20/10/2017]

“venture capital fund manager” means a holder of a licence for fund management who does not carry on business in any regulated activity other than the management of portfolios of securities on behalf of venture capital funds.

[S 588/2017 wef 20/10/2017]

(2) For the purposes of regulations 16, 17, 21(2)(b)(ii), 22(2)(b)(iii) and 23(a)(iii) and (b)(iii), where the total amount payable under qualifying letters of credit exceeds 50% of the total risk requirement of the holder, the amount in excess shall not be taken into account for determining the aggregate resources of the holder.

[S 192/2013 wef 03/04/2013]

[S 668/2018 wef 08/10/2018]

Financial resources

2A.—(1) In these Regulations, a reference to the financial resources of the holder of a licence is a reference to the sum of the following items in the latest available accounts of the holder, after deducting from those items such other items as may be specified in the MAS notice that applies to the holder and, if a notice referred to in regulation 2C is given to the holder, in that notice:

- (a) base capital;
- (b) paid-up irredeemable and cumulative preference share capital;
- (c) paid-up redeemable preference share capital;
- (d) revaluation reserves;
- (e) other reserves;
- (f) interim unappropriated profit; and
- (g) collective impairment allowances.

(2) Without prejudice to the definition of any of those items in regulation 2, the items in paragraph (1)(a) to (g) are those items in the latest available accounts of the holder that meet such criteria as may be specified in the MAS notice that applies to the holder.

(3) If the sum of the items in paragraph (1)(b) and (c) is more than the item in paragraph (1)(a), the excess amount shall be disregarded

in determining the financial resources of the holder for any purpose under these Regulations.

(4) Notwithstanding paragraphs (1) and (3) and subject to paragraph (5), the total of the excess amount referred to in paragraph (3), and the amounts of all qualifying subordinated loans of the holder that remain outstanding during a temporary period (referred to in this regulation as the total amount) may be included in the financial resources of the holder for that temporary period for any purpose under these Regulations, if (and only if) —

- (a) each temporary period in which the inclusion is made, and the aggregate of all the temporary periods in each calendar year in which the inclusion is made, do not exceed 90 days; and
- (b) immediately after the inclusion, the holder notifies the Authority and the approved exchange or approved clearing house of which the holder is a member (if applicable) of that fact.

[S 463/2013 wef 01/08/2013]

(5) For the purposes of paragraph (4), where the total amount exceeds the amount of the item in paragraph (1)(a), the total amount shall be deemed to be the amount of the item in paragraph (1)(a).

[S 192/2013 wef 03/04/2013]

MAS notices

2B. The Authority may from time to time issue notices for the purposes of these Regulations, which shall be published on 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").

[S 192/2013 wef 03/04/2013]

Variation of adjusted net head office funds, financial resources or total risk requirement

2C. The Authority may, for the purpose of addressing the risks applicable to a particular holder of a licence, by notice in writing to the holder —

- (a) specify an amount of or a formula for computing the total risk requirement that is in substitution for or that supplements the amount specified in or computed in accordance with the MAS notice applicable to the holder;
- (b) specify items to be deducted from the items referred to in regulation 2A(1)(a) to (g) that are additional to those set out in the MAS notice applicable to the holder; or
- (c) specify items to be deducted from the adjusted net head office funds of the holder that are additional to those set out in the MAS notice applicable to the holder.

[S 192/2013 wef 03/04/2013]

PART II

BASE CAPITAL REQUIREMENT

Grant of licence

3. For the purposes of section 86(3) of the Act, the Authority shall not grant a licence to a corporation unless at the time of such grant —

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

is not less than —

- (i) the base capital requirement applicable to the corporation under the First Schedule; or
- (ii) such other requirement as the Authority may approve as appropriate having regard to the operations of the corporation.

[S 714/2010 wef 26/11/2010]

Where base capital of holder of licence falls below base capital requirement

4.—(1) The holder of a licence 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 the base capital requirement applicable to the holder under regulation 3 or paragraph (1A), as the case may be.

[S 101/2008 wef 27/02/2008]

(1A) If a holder of a licence, at any time during the period of its licence, intends to commence or cease business in any regulated activity, or change the scope of its business in a regulated activity, such that a different base capital requirement shall apply to it, it shall obtain the prior written approval of the Authority to comply with the new base capital requirement applicable to it.

[S 101/2008 wef 27/02/2008]

(2) If the holder of a licence fails to comply with paragraph (1) or becomes aware that it will fail to comply with that paragraph, the holder shall immediately notify —

- (a) the Authority; and
- (b) the approved exchange or approved clearing house of which the holder is a member (if applicable).

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(3) If the Authority is notified by the holder of a licence under paragraph (2) or becomes aware that the holder has failed to comply with paragraph (1), the Authority may —

- (a) direct the holder to immediately do one or more of the following:
 - (i) cease any increase in positions, product financing, funds accepted for management and assets accepted for custody for any account carried by the holder;
[S 668/2018 wef 08/10/2018]
 - (ii) transfer all or part of any customer's positions, margins, collateral, assets and accounts to one or more other holders of licences;
[S 668/2018 wef 08/10/2018]
 - (iii) operate its business in such manner and on such conditions as the Authority may impose;

- (iv) cease carrying on business in any or all of the regulated activities permitted under its licence until such time the holder complies with paragraph (1), except that the holder may continue trading for the purposes of liquidation only or unless otherwise directed by the Authority; or
- (b) revoke the licence of the holder under section 95(2) of the Act.

[S 714/2010 wef 26/11/2010]

(4) The Authority may revoke the licence of the holder under section 95(2) of the Act if the holder fails to comply with a direction issued to it under paragraph (3)(a).

[S 714/2010 wef 26/11/2010]

Exemption from regulation 4(1)

4A.—(1) A specified holder of a licence who maintains a base capital of \$150,000 is exempt from complying with regulation 4(1) until 8 October 2019.

(2) In paragraph (1), a specified holder of a licence is a person who —

- (a) was granted a licence to carry on business in dealing in capital markets products between 8 October 2018 and 7 October 2019 (both dates inclusive); and
- (b) immediately before 8 October 2018, was a holder of a financial adviser's licence for the marketing of any collective investment scheme under section 13(1) of the Financial Advisers Act (Cap. 110).

[S 668/2018 wef 08/10/2018]

PART III

FINANCIAL RESOURCES REQUIREMENT

[S 192/2013 wef 03/04/2013]

Holder of licence

5. In this Part, a reference to the holder of a licence excludes —
- (a) a holder of a licence who only holds a licence to provide credit rating services; and
 - (b) a holder of a licence who is a venture capital fund manager.

[S 588/2017 wef 20/10/2017]

Written directions to maintain financial resources in Singapore

5A.—(1) The Authority may, from time to time, issue written directions to any holder of a licence or class of such holders, to require the holder or each holder of that class to maintain and hold such of its financial resources as the written direction may specify in Singapore, and the holder shall comply with such written direction.

[S 192/2013 wef 03/04/2013]

(2) The written direction referred to in paragraph (1) may specify, in respect of the financial resources of any holder or class of holders —

- (a) the items that are to be maintained and held in Singapore;

[S 192/2013 wef 03/04/2013]

- (b) the minimum value of any such items to be maintained and held in Singapore; and

- (c) the method of valuation of such items maintained and held in Singapore, including any deductions to be made in respect of those items.

[S 101/2008 wef 27/02/2008]

Financial resources of holder of licence not to fall below total risk requirement

- 6.—(1) The holder of a licence shall not cause or permit —
- (a) where it is incorporated in Singapore, its financial resources; or
 - (b) where it is a foreign company, its adjusted net head office funds,

to fall below its total risk requirement.

(2) The holder of a licence shall compute its financial resources (if applicable) in accordance with regulation 2A and its total risk requirement in accordance with paragraph (2B) —

- (a) at such time and frequency as may be specified by the Authority by notice in writing; or
- (b) where the Authority does not so specify, at such time and frequency as may be necessary for determining whether at any time its financial resources falls below its total risk requirement.

[S 192/2013 wef 03/04/2013]

(2A) The holder of a licence shall compute its adjusted net head office funds (if applicable) in accordance with the definition of “adjusted net head office funds” in regulation 2(1) and its total risk requirement in accordance with paragraph (2B) —

- (a) at such time and frequency as may be specified by the Authority by notice in writing; or
- (b) where the Authority does not so specify, at such time and frequency as may be necessary for determining whether at any time its adjusted net head office funds falls below its total risk requirement.

[S 192/2013 wef 03/04/2013]

(2B) The holder of a licence shall compute its total risk requirement in accordance with the MAS notice that applies to him, any notice referred to in regulation 2C given to the holder, or both (whichever is applicable).

[S 192/2013 wef 03/04/2013]

(3) If the holder of a licence fails to comply with paragraph (1), (2) or (2A) or becomes aware that it will fail to comply with that paragraph, the holder shall immediately notify —

- (a) the Authority; and

- (b) the approved exchange or approved clearing house of which the holder is a member (if applicable).

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

[S 192/2013 wef 03/04/2013]

(4) If the Authority is notified by the holder of a licence under paragraph (3) or becomes aware that the holder has failed to comply with paragraph (1), (2) or (2A), the Authority may revoke the licence of the holder under section 95(2) of the Act.

[S 714/2010 wef 26/11/2010]

[S 192/2013 wef 03/04/2013]

(5) *[Deleted by S 668/2018 wef 08/10/2018]*

Where financial resources of holder of licence fall below 120% of total risk requirement

7.—(1) The holder of a licence shall immediately notify the Authority, and the approved exchange or approved clearing house of which the holder is a member (if applicable), if —

- (a) in the case where the holder is incorporated in Singapore, its financial resources; or
- (b) in the case where the holder is a foreign company, its adjusted net head office funds,

fall below 120% of its total risk requirement.

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(2) If the Authority is notified by the holder under paragraph (1) or becomes aware that the financial resources or adjusted net head office funds (as the case may be) of the holder have fallen below 120% of its total risk requirement, the Authority may —

- (a) direct the holder to immediately do one or more of the following:

- (i) cease any increase in positions, product financing, funds accepted for management and assets accepted for custody for any account carried by the holder;

[S 668/2018 wef 08/10/2018]

- (ii) transfer all or part of any customer's positions, margins, collateral, assets and accounts to one or more other holders of licences;
- (iii) operate its business in such manner and on such conditions as the Authority may impose;
- (iv) cease carrying on business in any or all of the regulated activities permitted under its licence until such time that the holder has demonstrated that its financial resources or adjusted net head office funds (as the case may be) are not less than 120% of the total risk requirement of the holder, except that the holder may continue trading for the purposes of liquidation only or if otherwise directed by the Authority; or

- (b) revoke the licence of the holder under section 95(2) of the Act.

[S 192/2013 wef 03/04/2013]

(3) Subject to paragraph (4), if an approved exchange or approved clearing house is notified by the holder of a licence under paragraph (1) or becomes aware that the financial resources or adjusted net head office funds (as the case may be) of the holder have fallen below 120% of the total risk requirement of the holder for 5 consecutive business days or more, the approved exchange or approved clearing house (as the case may be) may direct the holder to immediately do one or more of the following, and shall immediately notify the Authority of such direction:

- (a) submit the statements referred to in regulation 27(1) to the approved exchange or approved clearing house (as the case may be) on a weekly basis or at such other interval as may be determined by the approved exchange or approved clearing house, until the financial resources or adjusted net

head office funds of the holder are not less than 120% of the total risk requirement of the holder for 8 consecutive weeks or such other period as may be determined by the approved exchange or approved clearing house;

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

- (b) cease any increase in positions, product financing, funds accepted for management and assets accepted for custody for any account carried by the holder;

[S 668/2018 wef 08/10/2018]

- (c) transfer all or part of any customer's positions, margins, collateral, assets and accounts to one or more other holders of licences;

- (d) operate its business in such manner and on such conditions as the approved exchange or approved clearing house (as the case may be) may impose.

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

- (4) The Authority may —

- (a) review, affirm, modify or set aside any direction issued by an approved exchange or approved clearing house to the holder of a licence under paragraph (3); or

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

- (b) direct the holder to cease carrying on business in any or all of the regulated activities permitted under its licence until such time that the holder has demonstrated that its financial resources or adjusted net head office funds (as the case may be) are not less than 120% of the total risk requirement of the holder, except that the holder may continue trading for the purposes of liquidation only or unless otherwise directed by the Authority.

(4A) Where an approved exchange or approved clearing house informs the Authority that the holder of a licence has failed to comply with any direction given to it under paragraph (3), the Authority may,

if it thinks necessary or expedient, direct the holder of the licence to comply with that direction, within such time as may be specified by the Authority and subject to such modifications that the Authority may make to the direction.

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(5) Any statement required to be submitted under paragraph (3)(a) shall be —

- (a) signed by a director of the holder of a licence or such other person as the Authority may allow; and
- (b) lodged with the approved exchange or approved clearing house of which the holder is a member not later than one business day after the end of the week or other interval referred to in paragraph (3)(a).

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(6) The Authority may revoke the licence of the holder under section 95(2) of the Act if the holder fails to comply with a direction issued to it under paragraph (2)(a), (3), (4)(b) or (4A).

[S 677/2006 wef 20/12/2006]

[S 714/2010 wef 26/11/2010]

[S 192/2013 wef 03/04/2013]

[Deleted by S 192/2013 wef 03/04/2013]

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PART IV

AGGREGATE INDEBTEDNESS

Holder of licence

15. In this Part, unless the context otherwise requires, “holder of a licence” means a corporation that is one or more of the following:

- (a) the holder of a licence to deal in capital markets products which is a member of an approved exchange, not including the holder of a licence —

- (i) which does not carry any customer's position, margin or account in its own books; and
- (ii) which either —
 - (A) deals in capital markets products solely with one or more of the following types of investors:
 - (AA) accredited investors;
 - (AB) expert investors;
 - (AC) institutional investors; or
 - (B) carries on the business of soliciting or accepting orders for the purchase or sale of any capital markets products from any customer, and no other business;
- (b) the holder of a licence which is a member of an approved clearing house,

whether or not the corporation is also permitted to carry on business in any other regulated activity.

[S 668/2018 wef 08/10/2018]

Where aggregate indebtedness exceeds 1,200% of aggregate resources

16.—(1) The holder of a licence shall not cause or permit its aggregate indebtedness to exceed 1,200% of its aggregate resources.

(2) If the holder fails to comply with paragraph (1) or becomes aware that it will fail to comply with that paragraph, the holder shall immediately notify —

- (a) the Authority; and
- (b) the approved exchange or approved clearing house of which the holder is a member.

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(3) If the Authority is notified by the holder under paragraph (2) or becomes aware that the holder has failed to comply with

paragraph (1), the Authority may revoke the licence of the holder under section 95(2) of the Act.

[S 714/2010 wef 26/11/2010]

(4) [*Deleted by S 668/2018 wef 08/10/2018*]

Where aggregate indebtedness exceeds 600% of aggregate resources

17.—(1) The holder of a licence shall immediately notify the Authority, and the approved exchange or approved clearing house of which the holder is a member, if the aggregate indebtedness of the holder exceeds 600% of its aggregate resources.

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(2) Subject to paragraph (3), if an approved exchange or approved clearing house is notified by the holder under paragraph (1) or becomes aware that the aggregate indebtedness of the holder has exceeded 600% of the aggregate resources of the holder for 5 consecutive business days or more, the approved exchange or approved clearing house (as the case may be) may direct the holder to immediately do one or more of the following, and shall immediately notify the Authority of such direction:

- (a) submit the statements referred to in regulation 27(1) to the approved exchange or approved clearing house on a weekly basis or at such other interval as may be determined by the approved exchange or approved clearing house, until the aggregate indebtedness of the holder is equal to or less than 600% of the aggregate resources of the holder for 8 consecutive weeks or such other period as may be determined by the approved exchange or approved clearing house;

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

- (b) cease any increase in positions, product financing, funds accepted for management and assets accepted for custody for any account carried by the holder;

[S 668/2018 wef 08/10/2018]

- (c) transfer all or part of any customer's positions, margins, collateral, assets and accounts to one or more other holders of licences;
- (d) operate its business in such manner and on such conditions as the approved exchange or approved clearing house (as the case may be) may impose.

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(3) The Authority may —

- (a) review, affirm, modify or set aside any direction issued by an approved exchange or approved clearing house to the holder under paragraph (2); or

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

- (b) direct the holder to cease carrying on business in any or all of the regulated activities permitted under its licence until such time that the holder has demonstrated that its aggregate indebtedness is equal to or less than 600% of the aggregate resources of the holder, except that the holder may continue trading for the purposes of liquidation only or if otherwise directed by the Authority.

(3A) Where an approved exchange or approved clearing house informs the Authority that the holder of a licence has failed to comply with any direction given to it under paragraph (2), the Authority may, if it thinks necessary or expedient, direct the holder of the licence to comply with that direction, within such time as may be specified by the Authority and subject to such modifications that the Authority may make to the direction.

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(4) Any statement required to be submitted under paragraph (2)(a) shall be —

- (a) signed by a director of the holder or such other person as the Authority may allow; and

- (b) lodged with the approved exchange or approved clearing house of which the holder is a member not later than one business day after the end of the week or other interval referred to in paragraph (2)(a).

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(5) The Authority may revoke the licence of the holder under section 95(2) of the Act if the holder fails to comply with a direction issued to it under paragraph (2), (3)(b) or (3A).

[S 677/2006 wef 20/12/2006]

[S 714/2010 wef 26/11/2010]

PART V

RESERVE FUND AND OTHER FINANCIAL REQUIREMENTS

18. [Deleted by S 192/2013 wef 03/04/2013]

Maintenance of reserve fund by holder of licence which is member of approved clearing house

19.—(1) The holder of a licence to deal in capital markets products which is a member of an approved clearing house shall maintain a reserve fund to which a sum of not less than 30% of the audited net profits of each year shall be transferred out of the net profits after due provision has been made for taxation, so long as —

- (a) where it is incorporated in Singapore, the base capital less unappropriated profits in the latest audited accounts of the holder; or
- (b) where it is a foreign company, the net head office funds of the holder,

is less than \$5 million.

[S 677/2006 wef 20/12/2006]

[S 101/2008 wef 27/02/2008]

[S 463/2013 wef 01/08/2013]

[S 668/2018 wef 08/10/2018]

(2) Subject to regulation 23, if the Authority is satisfied that the reserve fund of the holder of a licence referred to in paragraph (1) is adequate for its business, the Authority may, by order in writing and on such conditions or restrictions as the Authority may impose, allow such amount in the reserve fund of that holder as the Authority may specify to be available for distribution as dividends.

Reduction in paid-up ordinary share capital or paid-up irredeemable and non-cumulative preference share capital

20. The holder of a licence that is incorporated in Singapore shall not reduce its paid-up ordinary share capital or paid-up irredeemable and non-cumulative preference share capital without the prior written approval of the Authority.

[S 507/2006 wef 28/08/2006]

[S 192/2013 wef 03/04/2013]

Preference share

21.—(1) Where the holder of a licence which is incorporated in Singapore issues any preference share, the holder shall, prior to the date of issue of the preference share, notify the Authority, and the approved exchange or approved clearing house of which the holder is a member (if applicable).

[S 677/2006 wef 20/12/2006]

[S 192/2013 wef 03/04/2013]

[S 463/2013 wef 01/08/2013]

(2) The holder of a licence referred to in regulation 5 which is incorporated in Singapore shall not repay the principal of any preference share (other than any paid-up irredeemable and non-cumulative preference share capital) that is computed as part of the holder's financial resources, through repurchase or redemption —

- (a) unless the holder notifies the Authority, and the approved exchange or approved clearing house of which the holder is

a member (if applicable), at least 3 months before the proposed date of repurchase or redemption;

[S 677/2006 wef 20/12/2006]

[S 192/2013 wef 03/04/2013]

[S 463/2013 wef 01/08/2013]

(b) if, at the date of repurchase or redemption —

(i) the sum of financial resources of the holder is less than 120% of the total risk requirement of the holder;
or

[S 192/2013 wef 03/04/2013]

(ii) in a case of a holder to which regulation 17 applies, the aggregate indebtedness of the holder exceeds 600% of the aggregate resources of the holder;

(c) if such a repurchase or redemption will cause an event in paragraph (b) to occur; or

[S 192/2013 wef 03/04/2013]

(d) if the Authority, or the approved exchange or approved clearing house of which the holder is a member (if applicable), has prohibited in writing such a repurchase or redemption.

[S 677/2006 wef 20/12/2006]

[S 192/2013 wef 03/04/2013]

[S 463/2013 wef 01/08/2013]

Qualifying subordinated loan

22.—(1) Where the holder of a licence referred to in regulation 5 draws down a qualifying subordinated loan, the holder shall notify, no later than the date of draw down of the qualifying subordinated loan, the Authority, and the approved exchange or approved clearing house of which the holder is a member (if applicable).

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

- (2) The holder of a licence referred to in regulation 5 —
- (a) shall not repay, whether in part or in full, any subordinated loan principal before the maturity date set out in the subordination loan agreement —
 - (i) without the prior approval of the approved exchange or approved clearing house of which the holder is a member (if applicable); and
 - [S 677/2006 wef 20/12/2006]*
 - [S 463/2013 wef 01/08/2013]*
 - (ii) without providing prior notification to the Authority; and
 - (b) shall not repay, whether in part or in full, any subordinated loan principal that has matured —
 - (i) unless the holder notifies the Authority, and the approved exchange or approved clearing house of which the holder is a member (if applicable), at least one business day before the date of repayment;
 - [S 677/2006 wef 20/12/2006]*
 - [S 463/2013 wef 01/08/2013]*
 - (ii) if the sum of financial resources of the holder is less than 120% of the total risk requirement of the holder;
 - [S 192/2013 wef 03/04/2013]*
 - (iii) in a case of a holder to which regulation 17 applies, if the aggregate indebtedness of the holder exceeds 600% of the aggregate resources of the holder;
 - (iv) if such a repayment will cause an event in sub-paragraph (ii) or (iii) to occur; or
 - (v) if the Authority, or the approved exchange or approved clearing house of which the holder is a member (if applicable), has prohibited in writing such a repayment.

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

Making of unsecured loan or advance, payment of dividend or director's fees or increase in director's remuneration

23. The holder of a licence to deal in capital markets products which is a member of an approved exchange or approved clearing house shall not, without the prior written approval of the Authority, and the approved exchange or approved clearing house of which the holder is a member, make any unsecured loan or advance, pay any dividend or director's fees or increase any director's remuneration if —

(a) in the case where the holder is incorporated in Singapore —

(i) the base capital of the holder is less than the base capital requirement applicable to the holder under regulation 3;

(ii) the financial resources of the holder is less than 120% of the total risk requirement of the holder; or

[S 192/2013 wef 03/04/2013]

(iii) in a case of a holder to which regulation 17 applies, the aggregate indebtedness of the holder exceeds 600% of the aggregate resources of the holder; or

(iv) *[Deleted by S 192/2013 wef 03/04/2013]*

(b) in the case where the holder is a foreign company —

(i) the net head office funds of the holder is below the base capital requirement applicable to the holder under regulation 3;

(ii) the adjusted net head office funds of the holder is less than 120% of the total risk requirement of the holder; or

[S 192/2013 wef 03/04/2013]

(iii) if regulation 17 applies to the holder, the aggregate indebtedness of the holder exceeds 600% of the aggregate resources of the holder.

[S 192/2013 wef 03/04/2013]

(iv) [*Deleted by S 192/2013 wef 03/04/2013*]

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

[S 668/2018 wef 08/10/2018]

PART VI

MARGIN REQUIREMENTS

Margin requirement for product financing

24.—(1) Subject to regulation 24B, the holder of a licence for product financing —

(a) shall obtain margin from each customer in respect of any provision of product financing to the customer; and

[S 668/2018 wef 08/10/2018]

(b) shall not cause or permit the equity in the customer's margin account to be 110% of the debit balance in that customer's margin account or less.

[S 77/2009 wef 01/03/2009]

[S 668/2018 wef 08/10/2018]

(2) Where the equity in a customer's margin account is 110% of the debit balance in that customer's margin account or less, the holder of a licence shall immediately require the customer to provide additional margin within 2 business days to increase the equity in the customer's margin account to more than 110% of the debit balance in that customer's margin account.

(3) The holder of a licence shall not cause or permit —

(a) the aggregate of the margin exposures in the margin accounts of all customers to exceed 300%, or such other percentage as the Authority may allow, of its free financial resources;

[S 372/2005 wef 01/07/2005]

[S 192/2013 wef 03/04/2013]

(b) the aggregate of the margin exposures in the margin accounts of all customers in respect of specified products,

other than specified products quoted on an approved exchange, to exceed 100%, or such other percentage as the Authority may allow, of its free financial resources; and

[S 372/2005 wef 01/07/2005]

[S 192/2013 wef 03/04/2013]

[S 668/2018 wef 08/10/2018]

- (c) the debit balance in each customer's margin account to exceed 20%, or such other percentage as the Authority may allow, of its free financial resources.

[S 372/2005 wef 01/07/2005]

[S 192/2013 wef 03/04/2013]

- (d) *[Deleted by S 372/2005 wef 01/07/2005]*

- (4) *[Deleted by S 372/2005 wef 01/07/2005]*

(5) For the purpose of this regulation, margins deposited by customers with the holder in accordance with this regulation shall be in the form of acceptable collateral or such other instrument as may be specified in an MAS notice that applies to the holder or by a notice given to the holder by the Authority.

[S 507/2006 wef 28/08/2006]

[S 192/2013 wef 03/04/2013]

- (6) In this regulation, unless the context otherwise requires —

“acceptable collateral”, in relation to product financing, means —

(a) cash;

(aa) gold;

[S 668/2018 wef 08/10/2018]

(b) a share or convertible bond listed on the Singapore Exchange Securities Trading Limited;

(c) a share or convertible bond listed on a recognised group A exchange and that is —

(i) in the case of a share, included in a market index of that recognised group A exchange; or

(ii) issued by a corporation with shareholders' funds of not less than \$200 million or its equivalent in any foreign currency;

(d) a debt security —

(i) issued by a government or public entity of any country or territory, or a recognised multilateral agency specified in Table 3 of the Fourth Schedule, with a long-term rating of —

(A) not less than BB-minus by Fitch Ratings;

(B) not less than Ba3 by Moody's Investor Services; or

(C) not less than BB-minus by Standard & Poor's;

[S 668/2018 wef 08/10/2018]

(ii) issued by any other entity with a long-term rating of —

(A) not less than BBB-minus by Fitch Ratings;

(B) not less than Baa3 by Moody's Investor Services; or

(C) not less than BBB-minus by Standard & Poor's;

(iii) being a short-term debt instrument with a rating of —

(A) not less than F3 by Fitch Ratings;

(B) not less than P3 by Moody's Investor Services; or

(C) not less than A3 by Standard & Poor's; or

(iv) listed on the Singapore Exchange Securities Trading Limited or a recognised group A exchange if, and only if, the issuer's shares

are listed on that exchange and qualify as a share referred to in paragraph (b) or (c);

- (e) a collective investment scheme —
 - (i) authorised by the Authority under section 286 of the Act (other than exchange traded funds and property funds); or
 - (ii) recognised by the Authority under section 287 of the Act (other than exchange traded funds and property funds) —
 - (A) for which prices are published daily; and
 - (B) which invests at least 90% of the deposited property of the collective investment scheme in instruments being any or all of the instruments specified in paragraphs (a) to (k) (including this paragraph);
- (f) an exchange traded fund quoted on the Singapore Exchange Securities Trading Limited or a recognised group A exchange, which tracks an index of, or basket of, stocks quoted on —
 - (i) the Singapore Exchange Securities Trading Limited; or
 - (ii) a recognised group A exchange;
- (g) a property fund listed on the Singapore Exchange Securities Trading Limited or a recognised group A exchange;
- (h) any contract traded on —
 - (i) the Singapore Exchange Securities Trading Limited; or
 - (ii) a recognised group A exchange, where the shares of the issuer of the contract, and the shares of the issuer of the underlying security,

qualify as a share referred to in paragraph (b) or (c);

- (i) specified products in an initial public offer that are to be listed for quotation or to be quoted on the Singapore Exchange Securities Trading Limited, and which have been fully paid for by a customer of the holder of a licence;

[S 668/2018 wef 08/10/2018]

- (j) specified products quoted on the Central Limit Order Book (CLOB) International; or

[S 668/2018 wef 08/10/2018]

- (k) such other specified products or financial instruments as the Authority may specify in an MAS notice applicable to the holder;

[S 507/2006 wef 28/08/2006]

[S 192/2013 wef 03/04/2013]

[S 668/2018 wef 08/10/2018]

[S 668/2018 wef 08/10/2018]

[Deleted by S 192/2013 wef 03/04/2013]

“debit balance”, in relation to a customer’s margin account, means the amount owing by the customer in the margin account and includes —

- (a) amounts to be financed by the holder of a licence in respect of outstanding purchases made in the margin account of the customer, net of —
 - (i) cash collateral;
 - (ii) cash dividends declared and payable into the margin account of the customer; and
 - (iii) sales proceeds receivable from open sale contracts made in the margin account of the customer; and

[S 507/2006 wef 28/08/2006]

- (b) all commission charges, interest expenses and other related expenses;

“equity”, in relation to a customer’s margin account, means the current market value of acceptable collateral bought and carried, or deposited as collateral, by a customer in the margin account;

[S 507/2006 wef 28/06/2006]

“exchange traded fund” means a collective investment scheme concerned with the acquisition, holding, management or disposal of a portfolio of predetermined constituent assets in predetermined proportions, which constituent assets principally comprise specified products listed for quotation on any approved exchange or overseas exchange;

[S 668/2018 wef 08/10/2018]

[Deleted by S 192/2013 wef 03/04/2013]

“free financial resources” means the financial resources of the holder less the total risk requirement of the holder;

“margin account”, in relation to a customer, means an account of the customer through which the relevant holder of a licence extends or has extended product financing to the customer;

[S 668/2018 wef 08/10/2018]

“margin exposure”, in respect of a margin account, means —

- (a) where the specified products bought or carried, or deposited as collateral, in the margin account comprise a single specified product, the debit balance in the margin account; or
- (b) where the specified products bought or carried, or deposited as collateral, in the margin account comprise 2 or more specified products, an amount computed by the following formula:

$$\text{Debit balance} \times \frac{A}{B},$$

where —

- (i) A is the current market value of each specified product bought or carried, or deposited as collateral, in the margin account; and

- (ii) B is the aggregate of the current market value of all specified products bought or carried in the margin account, and the current market value of all specified products deposited as collateral in the margin account;

[S 668/2018 wef 08/10/2018]

“property fund” means a scheme which invests or proposes to invest primarily in real estate and real estate-related assets;

[S 668/2018 wef 08/10/2018]

“public entity” means —

- (a) a regional government or local authority that is able to exercise one or more functions of the central government at the regional or local level;
- (b) an administrative body or non-commercial undertaking responsible to, or owned by, a central government, regional government or local authority, which performs regulatory or non-commercial functions;
- (c) a statutory board in Singapore (other than the Authority); or
- (d) a town council in Singapore established pursuant to the Town Councils Act (Cap. 329A);

[S 668/2018 wef 08/10/2018]

“share”, in relation to acceptable collateral in a customer’s margin account, includes —

- (a) a bonus share that has yet to be credited to the margin account if, and only if, the holder of a licence is legally entitled to the receipt and deposit of such bonus share into the margin account; and
- (b) a depository receipt.

[S 507/2006 wef 28/08/2006]

(7) Any reference to financial resources in this regulation in relation to the holder of a licence referred to in regulation 5 which is a foreign company shall be read as adjusted net head office funds.

[S 668/2018 wef 08/10/2018]

Margin requirements for contracts for differences and spot foreign exchange contracts for the purposes of leveraged foreign exchange trading

24A.—(1) Subject to paragraph (2), a holder of a licence dealing in contracts for differences must obtain from its customers margin that meets the minimum margin requirements in respect of each contract for differences that the holder enters into with a customer —

(a) before 8 October 2018 and which remains in force on or after that date; or

(b) on or after 8 October 2018.

(2) A holder of a licence that was carrying on business in dealing in foreign exchange contracts for differences immediately before 8 October 2018 need not comply with paragraph (1) but must on and after 8 October 2019 obtain from its customers margin that meets the minimum margin requirements in respect of each foreign exchange contract for differences that the holder enters into with a customer —

(a) before 8 October 2019 and which remains in force on or after that date; or

(b) on or after 8 October 2019.

(3) Subject to paragraph (4), a holder of a licence dealing in spot foreign exchange contracts for the purpose of leveraged exchange trading must obtain from its customers margin that meets the minimum margin requirements in respect of each spot foreign exchange contract for the purpose of leveraged exchange trading that it enters into with its customers.

(4) A holder of a licence that was carrying on business in dealing in spot foreign exchange contracts for the purpose of leveraged exchange trading immediately before 8 October 2018 need not comply with paragraph (3) but must on and after 8 October 2019

obtain from its customers margin that meets the minimum margin requirements in respect of each spot foreign exchange contract for the purpose of leveraged exchange trading that the holder enters into with a customer —

- (a) before 8 October 2019 and which remains in force on or after that date; or
- (b) on or after 8 October 2019.

(5) The minimum margin requirements required under paragraphs (1) to (4) must be in the form of acceptable collateral.

(6) A holder of a licence that is required to obtain margin from a customer under paragraph (1), (2), (3) or (4) must, if the current market value of acceptable collateral in the customer's trading account falls below the minimum margin requirements, contact that customer immediately and inform the customer to provide additional acceptable collateral to make good the shortfall in value within 2 business days after being so informed by the holder of the licence.

(7) In this regulation —

“acceptable collateral” has the same meaning as in regulation 24(6);

“contract for differences” means any over-the-counter derivatives contract which is traded on a margin basis, the purpose or purported purpose of which is to secure a profit or avoid a loss by reference to fluctuations in —

- (a) the value or amount of one or more underlying things;
- (b) the value or price of any group of underlying things;
or
- (c) an index of one or more underlying things,

and which does not involve the actual taking or physical delivery of any of the underlying things;

“minimum margin requirements” means the minimum margin requirements specified in Table 18 of the Fourth Schedule;

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

“trading account”, in relation to a customer, means an account of the customer through which a holder of a licence enters or has entered into any transaction in —

- (a) any contract for differences; or
- (b) any spot foreign exchange contracts for the purposes of leveraged foreign exchange trading.

[S 668/2018 wef 08/10/2018]

Share financing

24B.—(1) Subject to its compliance with the conditions under paragraph (2), the holder of a licence for product financing need not comply with regulation 24 in respect of its provision to a customer of any product financing to facilitate his subscription for or purchase of any shares —

- (a) pursuant to an initial public offer;
- (b) in exercise of an option given under an employee share option scheme; or
- (c) pursuant to a rights issue,

where the product financing is provided before the allotment of those shares to the customer (referred to in this regulation as the subject product financing).

[S 668/2018 wef 08/10/2018]

(2) The holder under paragraph (1) shall —

- (a) take reasonable steps to ensure that the aggregate of —
 - (i) the amount of the credit facility, advance or loan provided to the customer under the subject product financing to facilitate his subscription for or purchase of shares in any of the respective circumstances referred to in paragraph (1)(a), (b) or (c); and

[S 668/2018 wef 08/10/2018]

- (ii) the amount of every other credit facility, advance or loan under any product financing provided by another financial institution to the customer to facilitate his subscription for or purchase of those shares in the same respective circumstances,

[S 668/2018 wef 08/10/2018]

together with all discounts, rebates and other benefits given to the customer for his subscription for or purchase of those shares in those same respective circumstances by the holder and other persons, does not exceed 80% of the amount to be paid by the customer for those shares, including obtaining a written declaration from the customer on whether —

- (A) he has received any discount, rebate or other benefit from any person for his subscription for or purchase of those shares in those same respective circumstances, and the amount and other details of each such discount, rebate or benefit; and
- (B) he has been provided with product financing by any other financial institution for his subscription for or purchase of those shares in those same respective circumstances, and the amount of the credit facility, advance or loan and other details of each such financing; and

[S 668/2018 wef 08/10/2018]

(b) ensure that the aggregate of —

- (i) the amount of the credit facility, advance or loan provided under the subject product financing; and

[S 668/2018 wef 08/10/2018]

- (ii) the amount of all credit facilities, advances and loans under all subject product financing that it has previously provided to its customers,

[S 668/2018 wef 08/10/2018]

does not exceed 20% of its free financial resources within the meaning of regulation 24(6).

[S 192/2013 wef 03/04/2013]

[S 77/2009 wef 01/03/2009]

Reporting of under-margined accounts by holder of licence

25.—(1) The holder of a licence under regulation 5 shall immediately notify the Authority, and the approved exchange or approved clearing house of which the holder is a member (if applicable), when any account which the holder is carrying for any customer is under-margined by an amount which exceeds the aggregate resources of the holder.

[S 192/2013 wef 03/04/2013]

[S 463/2013 wef 01/08/2013]

(2) [*Deleted by S 192/2013 wef 03/04/2013*]

(3) [*Deleted by S 192/2013 wef 03/04/2013*]

(4) Where the holder of a licence which is a member of an approved exchange or approved clearing house has, within one business day, failed to meet a margin call or to make other deposits as required by the approved exchange or approved clearing house (as the case may be), the approved exchange or approved clearing house shall immediately —

- (a) inform the Authority of such failure by the member; and
- (b) inform the Authority as to whether any action has been taken, and if so, the action taken, by the approved exchange or approved clearing house (as the case may be) in respect of such failure by the member.

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

(5) The approved exchange or approved clearing house may, in consultation with the Authority, exempt the holder of a licence from the provisions of paragraph (4) with respect to any particular account

on a continuous basis, but the approved exchange or approved clearing house shall continue to monitor that account.

[S 677/2006 wef 20/12/2006]

[S 463/2013 wef 01/08/2013]

PART VII

LODGMENT OF DOCUMENTS

Forms

26.—(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 384/2012 wef 07/08/2012]

(2) Except as otherwise provided in regulation 27(8), any document required to be lodged with the Authority under any provision of the Act or these Regulations, shall be lodged using the relevant form and in the manner specified in the website referred to in paragraph (1), or in such other manner as the Authority may specify from time to time.

(3) All forms used for the purposes of these Regulations shall be completed in the English language and in accordance with such directions as may be specified in the form or by the Authority.

(4) The Authority may refuse to accept any form if it is not completed or lodged in accordance with this regulation.

[S 372/2005 wef 01/07/2005]

Statement to be lodged in respect of regulated activities

27.—(1) The holder of a licence referred to in regulation 5 shall prepare —

- (a) a statement of assets and liabilities in Form 1; and

(b) a statement of financial resources, total risk requirement and aggregate indebtedness, where applicable, in Form 2,

[S 192/2013 wef 03/04/2013]

in respect of each quarter of a year or such longer period as the Authority may allow.

(2) *[Deleted by S 192/2013 wef 03/04/2013]*

(3) *[Deleted by S 192/2013 wef 03/04/2013]*

(4) The holder of a licence referred to in paragraph (1), shall, in preparing any statement referred to in that paragraph, describe the assets and liabilities of its business in a manner that will give a true and fair view of the state of affairs of the business as at the end of the period for which the statement is prepared.

[S 192/2013 wef 03/04/2013]

(5) The holder of a licence for product financing shall prepare statements in Forms 7, 8 and 9 relating to the carrying on of its business in product financing in respect of each quarter of a year.

[S 192/2013 wef 03/04/2013]

[S 668/2018 wef 08/10/2018]

(6) Every statement referred to in paragraph (1) or (5) shall be lodged with the Authority no later than 14 days, or such longer period as the Authority may allow, after the end of the period for which the statement is prepared.

[S 372/2005 wef 01/07/2005]

[S 192/2013 wef 03/04/2013]

(7) Any holder of a licence which fails to lodge any of the statements with the Authority within the period stipulated in paragraph (6), or such longer period as may be allowed by the Authority under that paragraph, 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 not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

[S 372/2005 wef 01/07/2005]

(8) For the purposes of section 107 of the Act, the holder of a licence shall prepare and lodge with the Authority, by personal delivery or by pre-paid post, true and fair financial statements made up to the last day of each financial year in accordance with the provisions of the Companies Act (Cap. 50), together with an auditor's report in Form 5.

[S 192/2013 wef 03/04/2013]

[S 395/2015 wef 01/07/2015]

(9) The documents referred to in paragraph (8) shall be accompanied by an auditor's certification in Form 6 and a copy of each of the following documents duly lodged in accordance with regulation 26:

- (a) a statement relating to the accounts of the holder in Form 3 and a statement relating to further information of the accounts of the holder in Form 4; and

[S 192/2013 wef 03/04/2013]

- (b) where the holder is a person referred to in regulation 5, a statement of assets and liabilities in Form 1 and a statement of financial resources, total risk requirement and aggregate indebtedness in Form 2.

[S 192/2013 wef 03/04/2013]

(c) *[Deleted by S 192/2013 wef 03/04/2013]*

(d) *[Deleted by S 192/2013 wef 03/04/2013]*

(e) *[Deleted by S 192/2013 wef 03/04/2013]*

[S 192/2013 wef 03/04/2013]

(10) Any holder of a licence which contravenes paragraph (9) 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 not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

PART VIII

[Deleted by S 192/2013 wef 03/04/2013]

PART VIIIA

MISCELLANEOUS

Offences

28A. Any person who contravenes —

- (a) regulation 4(1), (1A) or (2), 6(1), (2), (2A) or (3), 7(1), (3) or (5)(a) or (b), 16(1) or (2), 17(1), (2) or (4)(a) or (b), 19(1), 20, 21(1) or (2), 22(1) or (2), 23, 24(1), (2) or (3), 24A(1), (2), (3), (4), (5) or (6), 25(1) or (4) or 26(2) or (3); or

[S 192/2013 wef 03/04/2013]

[S 668/2018 wef 08/10/2018]

- (b) any direction issued by the Authority under regulation 4(3)(a), 5A(1), 7(2)(a), (4)(b) or (4A) or 17(3)(b) or (3A),

[S 192/2013 wef 03/04/2013]

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

[S 667/2006 wef 20/12/2006]

PART IX

29. to 36. *[Deleted by S 677/2006 wef 20/12/2006]*

FIRST SCHEDULE

Regulations 3 and 4

BASE CAPITAL REQUIREMENTS

1. Subject to paragraph 2, the base capital requirement applicable to a corporation granted or to be granted a capital markets services licence (called in this Schedule the applicant), in respect of a regulated activity in the first column of the table below is set out opposite to that regulated activity, in the second column of that table.

2. Except in the circumstances mentioned in paragraph 3, where more than one base capital requirement is applicable to the applicant mentioned in paragraph 1, the base capital requirement applicable to the applicant is the higher or (as the case may be) highest of the applicable base capital requirements.

FIRST SCHEDULE — *continued*

3. Where an applicant trades only in futures contracts in respect of one or more of the following commodities (called in this Schedule specified commodity futures contracts), the applicant may opt for the applicable base capital requirement corresponding to either item 1 or 3 in the table below:

- (a) gold;
- (b) any produce, item, goods or article, including an index, right or interest in any produce, item, goods or article.

<i>First column</i>	<i>Second column</i>
<i>Regulated activity</i>	<i>Base capital requirement applicable</i>
1. Dealing in capital markets products that are securities, units in a collective investment scheme or exchange-traded derivatives contracts and —	
(a) the applicant is a member of an approved clearing house;	\$5 million
(b) the applicant (not being an applicant to which paragraph (d) or (e) applies) is a member of an approved exchange;	\$1 million
(c) the applicant (not being an applicant to which paragraph (d) or (e) applies) is not a member of an approved exchange;	\$1 million
(d) the applicant (not being an applicant to which paragraph (e) applies) does not carry any customer's positions in those capital markets products, margins or accounts in its own books, and either —	\$500,000
(i) carries on the business only of soliciting or accepting orders for the purchase or sale of any of those capital markets products from any customer; or	
(ii) accepts money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any contract for the purchase or sale of	

FIRST SCHEDULE — continued

<i>First column</i>	<i>Second column</i>
<i>Regulated activity</i>	<i>Base capital requirement applicable</i>
those capital markets products by that customer; or	
(e) the applicant —	\$50,000
(i) does not carry any customer’s positions in those capital markets products, margins or accounts in its own books;	
(ii) deals in those capital markets products only with accredited investors, expert investors or institutional investors;	
(iii) does not accept money or assets from any customer as settlement of, or as a margin for, or to guarantee or secure, any contract for the purchase or sale of those capital markets products by that customer; and	
(iv) does not enter into any transaction with any customer to deal in those capital markets products as principal.	
2. Dealing in capital markets products that are over-the-counter derivatives contracts and —	
(a) the applicant is a member of an approved clearing house;	\$5 million
(b) the applicant (not being an applicant to which paragraph (c) applies) is not a member of an approved clearing house and deals in those capital markets products with —	
(i) any customer who is not an accredited investor, an expert investor or an institutional investor; or	\$5 million
(ii) only customers who are accredited investors, expert investors or institutional investors; or	\$1 million

FIRST SCHEDULE — *continued*

<i>First column</i>	<i>Second column</i>
<i>Regulated activity</i>	<i>Base capital requirement applicable</i>
(c) the applicant does not carry any customer's positions in those capital markets products, margins, or accounts in its own books, and either —	\$500,000
(i) carries on the business only of soliciting or accepting orders for the purchase or sale of any of those capital markets products from any customer; or	
(ii) accepts money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any contract for the purchase or sale of those capital markets products by that customer.	
3. Dealing in capital markets products that are specified commodity futures contracts only and —	
(a) the applicant is a member of an approved clearing house, where the applicant's membership is limited to specified commodity futures contracts;	\$1 million
(b) the applicant (not being an applicant to which paragraph (d) or (e) applies) is a member of an approved exchange;	\$500,000
(c) the applicant (not being an applicant to which paragraph (d) or (e) applies) is not a member of an approved exchange;	\$500,000
(d) the applicant does not carry any customer's positions in specified commodity futures contracts, margins or accounts in its own books, and either —	\$250,000
(i) carries on the business only of soliciting or accepting orders for the	

FIRST SCHEDULE — *continued*

<i>First column</i>	<i>Second column</i>
<i>Regulated activity</i>	<i>Base capital requirement applicable</i>
purchase or sale of any of those capital markets products from any customer (not being an applicant to which paragraph (e) applies); or	
(ii) accepts money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any purchase or sale of those capital markets products by that customer; or	
(e) the applicant —	\$250,000
(i) does not carry any customer's positions in those capital markets products, margins or accounts in its own books;	
(ii) deals in those capital markets products only with accredited investors; and	
(iii) does not accept money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any purchase or sale of those capital markets products by that customer.	
4. Dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading with or on behalf of —	
(a) any customer who is not an accredited investor, an expert investor or an institutional investor; or	\$5 million
(b) only customers who are accredited investors, expert investors or institutional investors.	\$1 million
5. Advising on corporate finance.	\$250,000
6. Carrying out fund management —	

FIRST SCHEDULE — *continued*

<i>First column</i>	<i>Second column</i>
<i>Regulated activity</i>	<i>Base capital requirement applicable</i>
(a) of any collective investment scheme offered to any investor other than an accredited investor or institutional investor;	\$1 million
(b) on behalf of any customer other than an accredited investor or institutional investor, whether on a discretionary authority granted by the customer or otherwise;	\$500,000
(c) solely as a venture capital fund manager; or	0
(d) in any other case.	\$250,000
7. Real estate investment trust management.	\$1 million
8. Carrying out product financing.	\$1 million
9. Providing credit rating services.	\$250,000
10. Providing custodial services.	\$1 million

[S 668/2018 wef 08/10/2018]

SECOND SCHEDULE

[Deleted by S 192/2013 wef 03/04/2013]

THIRD SCHEDULE

[Deleted by S 192/2013 wef 03/04/2013]

FOURTH SCHEDULE

Regulation 2 and Third Schedule

Table 1

[Deleted by S 192/2013 wef 03/04/2013]

FOURTH SCHEDULE — *continued*

Table 2

[Deleted by S 192/2013 wef 03/04/2013]

TABLE 3 — RECOGNISED MULTILATERAL AGENCIES

Regulation 24(6)

1. For the purposes of regulation 24(6), a recognised multilateral agency is an agency specified below:

- (a) The African Development Bank
- (b) The Asian Development Bank
- (c) The Asian Infrastructure Investment Bank
- (d) The Bank for International Settlements
- (e) The Caribbean Development Bank
- (f) The Council of Europe Development Bank
- (g) The European Bank for Reconstruction and Development
- (h) The European Central Bank
- (i) The European Financial Stability Facility
- (j) The European Investment Bank
- (k) The European Investment Fund
- (l) The European Stability Mechanism
- (m) The European Union
- (n) The Inter-American Development Bank
- (o) The International Finance Facility for Immunisation
- (p) The International Monetary Fund
- (q) The Islamic Development Bank
- (r) The Nordic Investment Bank
- (s) The World Bank Group, including the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation and the Multilateral Investment Guarantee Agency

[S 668/2018 wef 08/10/2018]

FOURTH SCHEDULE — *continued*TABLE 4 — RECOGNISED GROUP A AND
RECOGNISED GROUP B EXCHANGES

Regulation 24

For the purposes of regulation 24, a recognised exchange is an overseas exchange regulated by a financial services regulatory authority of a country or territory specified in the table below or such other country or territory as may be specified in an MAS notice.

<i>Country or Territory of Group A Exchanges</i>	<i>Country or Territory of Group B Exchanges</i>
(1) Australia	(1) China
(2) Austria	(2) Greece
(3) Belgium	(3) Finland
(4) Canada	(4) India
(5) France	(5) Indonesia
(6) Germany	(6) Ireland
(7) Hong Kong	(7) Luxembourg
(8) Italy	(8) Norway
(9) Japan	(9) Philippines
(10) Malaysia (except Labuan)	(10) Portugal.
(11) Netherlands	
(12) New Zealand	
(13) South Korea	
(14) Spain	
(15) Sweden	
(16) Switzerland	
(17) Taiwan	
(18) Thailand	
(19) United Kingdom	

FOURTH SCHEDULE — *continued*

(20) United States of America.

[S 192/2013 wef 03/04/2013]

[S 668/2018 wef 08/10/2018]

Table 5

[Deleted by S 192/2013 wef 03/04/2013]

Table 6

[Deleted by S 192/2013 wef 03/04/2013]

Table 7

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Table 11

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Table 12

[Deleted by S 192/2013 wef 03/04/2013]

FOURTH SCHEDULE — *continued*

Table 13

[Deleted by S 192/2013 wef 03/04/2013]

Table 14

[Deleted by S 192/2013 wef 03/04/2013]

Table 15

[Deleted by S 192/2013 wef 03/04/2013]

Table 16

[Deleted by S 192/2013 wef 03/04/2013]

Table 17

[Deleted by S 192/2013 wef 03/04/2013]

TABLE 18 — MINIMUM MARGIN REQUIREMENTS
FOR CONTRACTS FOR DIFFERENCES OR SPOT
FOREIGN EXCHANGE CONTRACTS FOR PURPOSES
OF LEVERAGED FOREIGN EXCHANGE TRADING

Regulation 24A(7)

<i>First column</i>	<i>Second column</i>
<i>Products</i>	<i>Minimum margin requirements</i>
1. Equity CFDs without stop-loss features	(a) 10% for index stocks; and (b) 20% for non-index stocks.
2. Index CFDs without stop-loss features	5%
3. Foreign Exchange CFDs without stop-loss features	(a) 2% for any contract entered into only with a customer who is an accredited investor, expert

FOURTH SCHEDULE — *continued*

<i>First column</i>	<i>Second column</i>
<i>Products</i>	<i>Minimum margin requirements</i>
	investor or institutional investor; and
	(b) 5% for any contract entered into with a customer who is not an accredited investor, expert investor or institutional investor.
4. CFDs with non-guaranteed stop-loss features	Lesser of — (a) the sum of the amount at risk and 30% of the standard margin; or (b) the standard margin.
5. CFDs with guaranteed stop-loss features	Lesser of — (a) the amount at risk; or (b) the standard margin.
6. CFDs with guaranteed stop-loss features, if the relevant CFD is subject to any adjustment for dividend, interest or commission	Lesser of — (a) the sum of the amount at risk and 10% of the amount at risk; or (b) the standard margin.
7. Any other CFD without stop-loss features	20%
8. Spot foreign exchange contracts for the purposes of leveraged foreign exchange trading with non-guaranteed stop-loss features	Lesser of — (a) the sum of the amount at risk and 30% of the standard margin; or (b) the standard margin.
9. Spot foreign exchange contracts for the purposes of leveraged foreign exchange trading with guaranteed stop-loss features	Lesser of — (a) the amount at risk; or (b) the standard margin.

FOURTH SCHEDULE — *continued*

<i>First column</i>	<i>Second column</i>
<i>Products</i>	<i>Minimum margin requirements</i>
10. Spot foreign exchange contracts for the purposes of leveraged foreign exchange trading with guaranteed stop-loss features, if the relevant spot foreign exchange contract is subject to any adjustment for dividend, interest or commission	Lesser of — (a) the sum of the amount at risk and 10% of the amount at risk; or (b) the standard margin.
11. Any other spot foreign exchange contracts for the purposes of leveraged foreign exchange trading without stop-loss features	(a) 2% for contracts entered into only with customers who are accredited investors, expert investors or institutional investors; and (b) 5% for contracts entered into with a customer who is not an accredited investor, an expert investor or an institutional investor.

Note:

In this Table —

“amount at risk” means the maximum loss a customer may incur based on the difference between the contract price and stop-loss price;

“CFD” means a contract for differences;

“index” means the Straits Times Index, MSCI Singapore Index or a market index of a recognised group A exchange;

“standard margin” means the minimum margin for either of the following:

(a) CFDs without stop-loss features;

(b) spot foreign exchange contracts for the purposes of leveraged foreign exchange trading without stop-loss features;

“stop-loss” means —

(a) in the case of a CFD, a feature attached to an open CFD position to close the CFD if the relevant price reaches a specified level;

or

FOURTH SCHEDULE — *continued*

- (b) in the case of a spot foreign exchange contract for the purposes of leveraged foreign exchange trading, a feature attached to a position in such contract to close such contract if the relevant price reaches a specified level.

[S 668/2018 wef 08/10/2018]

FIFTH SCHEDULE

[Deleted by S 192/2013 wef 03/04/2013]

SIXTH SCHEDULE

[Deleted by S 192/2013 wef 03/04/2013]

SEVENTH SCHEDULE

[Deleted by S 372/2005 wef 01/07/2005]

LEGISLATIVE HISTORY
SECURITIES AND FUTURES (FINANCIAL AND MARGIN
REQUIREMENTS FOR HOLDERS OF CAPITAL MARKETS
SERVICES LICENCES) REGULATIONS
(CHAPTER 289, RG 13)

This Legislative History is provided for the convenience of users of the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations. It is not part of these Regulations.

1. G. N. No. S 498/2002 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations 2002

Date of commencement : 1 October 2002

2. G. N. No. S 332/2003 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2003

Date of commencement : 10 July 2003

3. G. N. No. S 521/2003 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment No. 2) Regulations 2003

Date of commencement : 6 November 2003

4. 2004 Revised Edition — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations

Date of operation : 29 February 2004

5. G. N. No. S 372/2005 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2005

Date of commencement : 1 July 2005

6. G. N. No. S 78/2006 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2006

Date of commencement : 1 March 2006

- 7. G. N. No. S 507/2006 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment No. 2) Regulations 2006**
- Date of commencement : 28 August 2006
- 8. G. N. No. S 677/2006 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment No. 3) Regulations 2006**
- Date of commencement : 20 December 2006
- 9. G. N. No. S 445/2007 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2007**
- Date of commencement : 27 February 2008
- 10. G. N. No. S 101/2008 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2008**
- Date of commencement : 27 February 2008
- 11. G. N. No. S 375/2008 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment No. 2) Regulations 2008**
- Date of commencement : 1 August 2008
- 12. G. N. No. S 77/2009 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2009**
- Date of commencement : 1 March 2009
- 13. G. N. No. S 714/2010 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2010**
- Date of commencement : 26 November 2010
- 14. G.N. No. S 19/2012 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets**

**Services Licences) (Amendment) Regulations
2012**

Date of commencement : 17 January 2012

**15. G.N. No. S 384/2012 — Securities and Futures (Financial and Margin
Requirements for Holders of Capital Markets
Services Licences) (Amendment No. 2)
Regulations 2012**

Date of commencement : 7 August 2012

**16. G.N. No. S 192/2013 — Securities and Futures (Financial and Margin
Requirements for Holders of Capital Markets
Services Licences) (Amendment) Regulations
2013**

Date of commencement : 3 April 2013

**17. G.N. No. S 463/2013 — Securities and Futures (Financial and Margin
Requirements for Holders of Capital Markets
Services Licences) (Amendment No. 2)
Regulations 2013**

Date of commencement : 1 August 2013

**18. G.N. No. S 395/2015 — Securities and Futures (Financial and Margin
Requirements for Holders of Capital Markets
Services Licences) (Amendment) Regulations
2015**

Date of commencement : 1 July 2015

**19. G.N. No. S 522/2016 — Securities and Futures (Financial and Margin
Requirements for Holders of Capital Markets
Services Licences) (Amendment) Regulations
2016**

Date of commencement : 1 November 2016

**20. G.N. No. S 588/2017 — Securities and Futures (Financial and Margin
Requirements for Holders of Capital Markets
Services Licences) (Amendment) Regulations
2017**

Date of commencement : 20 October 2017

21. G.N. No. S 668/2018 — Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment) Regulations 2018

Date of commencement : 8 October 2018