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SECURITIES AND FUTURES ACT
(CHAPTER 289)

SECURITIES AND FUTURES
(ORGANISED MARKETS)
REGULATIONS 2018

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In exercise of the powers conferred by sections 44, 338 and 341 of the Securities and Futures Act, the Monetary Authority of Singapore makes the following Regulations:

PART 1

PRELIMINARY

Citation and commencement

1.—(1) These Regulations are the Securities and Futures (Organised Markets) Regulations 2018 and, except for regulation 12, come into operation on 8 October 2018.

(2) Regulation 12 comes into operation on 1 October 2018.

Definitions

2. In these Regulations —

“over-the-counter derivatives contract” means a derivatives contract other than an exchange-traded derivatives contract;

“Singapore exchange-traded derivatives contracts market operator” means a recognised market operator that —

- (a) is a Singapore corporation within the meaning given by section 6 of the Act; and
- (b) operates an organised market at which offers or invitations to exchange, sell or purchase exchange-traded derivatives contracts are made.

Forms

3. Any reference in these Regulations to a numbered form is a reference to the current version of the form bearing the corresponding number displayed on the Authority’s website at <http://www.mas.gov.sg>.

Fees

4. The fees specified in the Schedule are payable to the Authority for the purposes specified in that Schedule.

Keeping of books and other information

5. Every approved exchange and every recognised market operator must ensure that all relevant books and information that are required by the Authority for the purposes of the Act are kept —

- (a) in the case of any relevant book, until at least 5 years after the last date of the expiry or termination of a contract, an agreement or a transaction to which the book relates; or
- (b) in the case of any information, until at least 5 years after the date of the expiry or termination of the contract, agreement or transaction to which the information relates.

PART 2**APPROVAL AND RECOGNITION****Minimum requirements for approval or recognition**

6.—(1) For the purposes of section 9(7) of the Act, the Authority must not approve an applicant as an approved exchange unless the applicant is able to maintain a base capital of \$10 million.

(2) For the purposes of section 9(7) of the Act, the Authority must not recognise an applicant that is a Singapore corporation as a recognised market operator unless the applicant is able to maintain a base capital of \$500,000.

(3) In this regulation, “base capital” means the amount calculated from the formula $A + B + C - D - E$, where —

- (a) A is the paid-up ordinary share capital of the corporation as set out in the latest balance-sheet of the corporation;
- (b) B is the paid-up irredeemable and non-cumulative preference share capital of the corporation as set out in the latest balance-sheet of the corporation;
- (c) C is the amount of any unappropriated profit or loss in the latest audited accounts of the corporation;
- (d) D is the amount of any interim loss in the latest profit and loss statement of the corporation; and

- (e) E is the amount of any dividend that has been declared since the latest audited accounts of the corporation.

Criteria for deciding whether applicant should be approved as approved exchange or recognised as recognised market operator

7.—(1) Pursuant to section 10(1)(a) of the Act, the Authority may, for the purposes of deciding whether a Singapore corporation mentioned in section 8(1) or 12(1) of the Act should be approved as an approved exchange, take into account the following criteria:

- (a) the likelihood that a disruption in the operations of an organised market to be operated by the corporation —
- (i) could trigger, cause or transmit further systemic disruptions to the capital markets or financial system of Singapore; or
 - (ii) could affect public confidence in the capital markets, financial institutions or financial system of Singapore;
- (b) the ability of the corporation to meet the obligations of an approved exchange under sections 15(1) and 17(1) of the Act.

(2) Pursuant to section 10(1)(a) of the Act, the Authority may, for the purposes of deciding whether a Singapore corporation mentioned in section 8(1) or 12(1) of the Act should be recognised as a recognised market operator, take into account the following criteria:

- (a) the likelihood that a disruption in the operations of an organised market to be operated by the corporation —
- (i) would not trigger, cause or transmit further systemic disruptions to the capital markets or financial system of Singapore; and
 - (ii) would not affect public confidence in the capital markets, financial institutions or financial system of Singapore;

- (b) the ability of the corporation to meet the obligations of a recognised market operator under sections 33(1) and 35(1) of the Act.

(3) The Authority may have regard to the following matters in determining whether a disruption in the operations of an organised market to be operated by a corporation could, or would not, have the effects mentioned in paragraphs (1) and (2):

- (a) the size and structure, or proposed size and structure, of the organised market to be operated by the corporation;
- (b) the nature of the services provided, or to be provided, by the organised market to be operated by the corporation;
- (c) the nature of the securities, units in collective investment schemes or derivatives contracts traded, or to be traded, on the organised market to be operated by the corporation;
- (d) the nature of the investors or participants, or proposed investors or participants, who may use or have an interest in the organised market to be operated by the corporation;
- (e) whether the corporation is regulated by the Authority under the Act or any other written law;
- (f) the persons who may be affected in the event that the corporation, or the organised market to be operated by the corporation, runs into difficulties.

PART 3

REGULATION OF APPROVED EXCHANGES

Division 1 — Obligations of, and matters relating to, approved exchanges

Obligation to notify Authority of certain matters

8.—(1) For the purposes of section 16(1)(g)(i) of the Act, the other matters that an approved exchange must notify the Authority of are as follows:

- (a) any civil or criminal legal proceeding instituted against the approved exchange, whether in Singapore or elsewhere;

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- (b) any disciplinary action taken against the approved exchange by any regulatory authority, whether in Singapore or elsewhere, other than the Authority;
 - (c) any change to the regulatory requirements imposed on the approved exchange by any regulatory authority, whether in Singapore or elsewhere, other than the Authority;
 - (d) any compromise of the integrity or security of the transmission or storage of any user information of the approved exchange;
 - (e) any action taken or intended to be taken to restore the integrity and security of the transmission or storage of that user information.
- (2) For the purposes of section 16(4) of the Act, the matters that an approved exchange must notify the Authority of are as follows:
- (a) any disruption, suspension or termination of, or delay in, any trading procedure or trading practice of the approved exchange (including any disruption, suspension, termination or delay resulting from any system failure) that —
 - (i) has a severe and widespread impact on the approved exchange's operations; or
 - (ii) materially impacts the approved exchange's service to its participants;
 - (b) any other disruption, suspension or termination of, or delay in, any trading procedure or trading practice of the approved exchange (including any disruption, suspension, termination or delay resulting from any system failure);
 - (c) any intention on the part of the approved exchange to enter into negotiations to establish a trading linkage, clearing arrangement or cooperative arrangement with any person establishing or operating any other organised market, clearing facility or trade repository.

(3) For the purposes of section 16(4) of the Act, an approved exchange must notify the Authority —

- (a) of a matter mentioned in paragraph (2)(a) no later than one hour after the discovery by the approved exchange of the disruption, suspension, termination or delay;
- (b) of a matter mentioned in paragraph (2)(b) no later than one day after the discovery by the approved exchange of the disruption, suspension, termination or delay; and
- (c) of a matter mentioned in paragraph (2)(c) no later than 14 days before the date on which the negotiations are intended to start.

(4) Where a matter mentioned in paragraph (1)(a) or (b) or (2)(a) or (b) has occurred, the approved exchange must, in addition to notifying the Authority of the matter under section 16(1) or (4) of the Act (as the case may be), submit, within 14 days or such longer period as the Authority may allow, after the occurrence, a report to the Authority stating —

- (a) the circumstances relating to the occurrence;
- (b) the remedial actions taken at the time of the occurrence; and
- (c) the subsequent follow-up actions that the approved exchange has taken or intends to take.

(5) In paragraph (2)(c), “cooperative arrangement” does not include —

- (a) any joint development of products and services;
- (b) any joint marketing efforts between the approved exchange and the person mentioned in paragraph (2)(c) in promoting the services of any organised market, clearing facility or trade repository established or operated by the approved exchange or that person; or
- (c) any memoranda of understanding for the exchange of information.

Obligation to submit periodic reports

9.—(1) For the purposes of section 19 of the Act, an approved exchange must submit to the Authority —

- (a) within 3 months, or such longer period as the Authority may allow, after the end of each financial year of the approved exchange —
 - (i) a copy of its financial statements, auditor's report and statement of directors mentioned in section 201(16) of the Companies Act (Cap. 50);
 - (ii) a copy of a report mentioned in paragraph (2) of the auditors of the approved exchange; and
 - (iii) a report on how the approved exchange has discharged its responsibilities under the Act during that financial year;
- (b) within 45 days, or such longer period as the Authority may allow, after the end of each of the first 3 quarters of each financial year of the approved exchange —
 - (i) a copy of its profit and loss accounts for the preceding quarter; and
 - (ii) a copy of its balance-sheet for the preceding quarter;
- (c) within 5 months, or such longer period as the Authority may allow, after the end of each of its financial years, a copy of the balance-sheet of the fidelity fund of the approved exchange prepared under section 180 of the Act;
- (d) where the approved exchange operates an organised market at which offers or invitations to exchange, sell or purchase specified products are made —
 - (i) a report in Form 6 within 10 business days, or such longer period as the Authority may allow, after the end of each month;
 - (ii) a report in Form 7 within 10 business days, or such longer period as the Authority may allow, after the end of each quarter of a year; and

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- (e) where the approved exchange operates an organised market at which offers or invitations to exchange, sell or purchase derivatives contracts are made or an organised market prescribed under paragraph 1(1)(b) of the First Schedule to the Act, a report in Form 8 within 10 business days, or such longer period as the Authority may allow, after the end of each month.
- (2) The report mentioned in paragraph (1)(a)(ii) must include the findings and recommendations of the auditors (if any) on —
- (a) the internal controls of the approved exchange; and
 - (b) the non-compliance with —
 - (i) any provision of the Act;
 - (ii) any direction issued by the Authority under the Act;
or
 - (iii) any other written law or rule of law on the internal controls of the approved exchange.

Exceptions to obligation to maintain confidentiality

10.—(1) For the purposes of section 21(2)(a) of the Act, section 21(1) of the Act does not apply to the disclosure of user information by an approved exchange or its officers or employees for the following purposes or in the following circumstances:

- (a) where the disclosure of user information —
 - (i) is necessary for the making of a complaint or report under any written law of an offence alleged or suspected to have been committed under that written law; and
 - (ii) is made for that purpose;
- (b) where the disclosure of user information —
 - (i) is permitted for a purpose specified in writing by the user or, if the user has died, by the user's personal representative; and
 - (ii) is made for that purpose;

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- (c) where the disclosure of user information is made to the approved holding company (if any) of the approved exchange;
 - (d) where the disclosure of user information —
 - (i) is necessary for the execution by the approved exchange of a transaction in any securities, units in collective investment schemes or derivatives contracts or for the clearing or settlement of a transaction; and
 - (ii) is made only to another user who is —
 - (A) a party to the transaction; or
 - (B) a member of an approved exchange, an approved clearing house or a recognised clearing house through which that transaction is executed, cleared or settled;
 - (e) where the disclosure of user information —
 - (i) is necessary in disciplinary proceedings of the approved exchange; and
 - (ii) is made for that purpose;
 - (f) where the disclosure of user information —
 - (i) is necessary for the publication of information on disciplinary proceedings, or on the outcome of disciplinary proceedings, of the approved exchange; and
 - (ii) is made for that purpose;
 - (g) where the user information that is disclosed is in the public domain;
 - (h) where the approved exchange enters into a contract for service (including a contract for service to perform one or more functions of the approved exchange, a contract for service to create, install or maintain one or more systems of the approved exchange, or a contract for service to provide legal, consulting or professional services to the approved

exchange) with a person, and the disclosure of user information —

- (i) is necessary for the performance of that contract for service; and
 - (ii) is made to that person for the purpose of the performance of that contract for service;
- (i) where the disclosure of user information —
- (i) is necessary, or is required by the Public Trustee, the Commissioner of Estate Duties or the equivalent in a foreign jurisdiction of the Public Trustee or the Commissioner of Estate Duties, for the purpose of —
 - (A) an application for a grant of probate or letters of administration, or the resealing of a grant of probate or letters of administration, in relation to the estate of a deceased user; or
 - (B) the administration of the estate of a deceased user; and
 - (ii) is made for that purpose;
- (j) where the disclosure of user information is made in connection with —
- (i) the bankruptcy of a user who is an individual; or
 - (ii) the winding up, receivership or judicial management of a user that is a body corporate.

(2) Where user information is disclosed under paragraph (1)(e), the approved exchange must take reasonable steps to ensure that the person to whom the disclosure is made uses that user information only for the purpose of any disciplinary proceeding of the approved exchange.

(3) Where user information is disclosed under paragraph (1)(h), the approved exchange must —

- (a) maintain, and make available for inspection by the Authority, a record of —

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- (i) the circumstances relating to the disclosure of user information; and
 - (ii) the particulars of the contract for service mentioned in paragraph (1)(h); and
- (b) take reasonable steps to ensure that the person to whom the disclosure is made (called in this paragraph *A*) —
- (i) uses that user information only for the purpose of performing the contract for service mentioned in paragraph (1)(h); and
 - (ii) does not further disclose that user information to any other person (called in this paragraph *B*) unless —
 - (A) the approved exchange consents to the further disclosure;
 - (B) *A* maintains, and makes available for inspection by the Authority, a record of the circumstances relating to the further disclosure; and
 - (C) *A* takes reasonable steps to ensure that *B* uses that user information only for the purpose of performing the contract for service mentioned in paragraph (1)(h).

Business continuity plan

11.—(1) An approved exchange must maintain at all times a plan of action setting out the procedures, and establishing the systems, necessary to restore, in the event of any disruption to the operations of any organised market that it operates, fair, orderly and transparent operations of that organised market.

(2) An approved exchange must review the procedures and systems mentioned in paragraph (1) on such regular basis as may be specified in the plan of action mentioned in that paragraph.

(3) An approved exchange must immediately notify the Authority of any activation of the plan of action mentioned in paragraph (1), and

of any action taken or intended to be taken to restore fair, orderly and transparent operations of its organised market.

- (4) An approved exchange must —
- (a) inform the Authority of any material change to the plan of action mentioned in paragraph (1) within 14 days, or such longer period as the Authority may allow, after the change; and
 - (b) if required by the Authority, submit a copy of the amended plan of action to the Authority.

Determination and publication of short sell orders

12.—(1) An approved exchange must, before the start of every trading day —

- (a) determine the aggregate volume of short sell orders in relation to any specified capital markets products that —
 - (i) were disclosed to the approved exchange for the purposes of section 137ZJ(1) or (3) of the Act or regulation 10(1), 12(2) or 13(1) of the Securities and Futures (Short Selling) Regulations 2018 (G.N. No. S 328/2018) in the immediately preceding trading day; and
 - (ii) were matched and executed on the immediately preceding trading day; and
- (b) publish that aggregate volume of short sell orders on the website of the approved exchange.

(2) An approved exchange that contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for every day or part of a day during which the offence continues after conviction.

(3) In this regulation, “short sell order” and “specified capital markets products” have the meanings given by section 137ZH(1) of the Act.

Provision of information

13. An approved exchange must make available at no cost to any person upon that person's request, or publish in a manner that is accessible at no cost, information on —

- (a) all services offered by the approved exchange;
- (b) all products available on the organised markets operated by the approved exchange;
- (c) the fees and charges applicable to each product available on an organised market operated by the approved exchange and each service offered by the approved exchange;
- (d) the margin requirements applicable to each product available on an organised market operated by the approved exchange; and
- (e) any arrangement that may be in place to compensate an investor who suffers pecuniary loss as a result of the actions or insolvency of a participant of the approved exchange.

Transmission and storage of user information

14. An approved exchange must take all reasonable measures to maintain the integrity and security of the transmission and storage of its user information.

Requirements to register trading personnel

15. An approved exchange must not —

- (a) allow any person, who is in or around any pit or other place provided by the approved exchange for trading of derivatives contracts, to purchase or sell any derivatives contract for that person's own account or for another person; or
- (b) allow any person to use any electronic system, provided by the approved exchange, through which trading in derivatives contracts is carried out —

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- (i) to purchase or sell any derivatives contract in that person's capacity as an employee or agent of a member of the approved exchange; or
 - (ii) to purchase or sell any derivatives contract, directly without any intermediary, for that person's own account or for another person,

unless that person is registered with the approved exchange, and such registration has not expired or been suspended or revoked by the approved exchange.

Amounts to be paid out of fidelity funds

16.—(1) For the purposes of section 186(10) of the Act, the prescribed amount is \$2 million.

(2) For the purposes of section 186(11) of the Act, the prescribed amount is \$50,000.

Division 2 — Rules of approved exchanges

Content of rules of approved exchanges

17.—(1) For the purposes of section 23(1)(a) of the Act, an approved exchange must, in its business rules or listing rules, make provision for —

- (a) the criteria that the approved exchange uses to determine whether to admit a person as a member of the approved exchange;
- (b) the continuing requirements for each member of the approved exchange, including requirements —
 - (i) that prohibit or prevent the member from engaging in improper conduct when participating in any organised market operated by the approved exchange;
 - (ii) that relate to the financial condition of the member, such as to provide reasonable assurance that all obligations arising out of the activities of the member

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- in any organised market operated by the approved exchange will be met;
- (iii) that facilitate the monitoring by the approved exchange of the compliance of the member with the business rules or listing rules of the approved exchange; and
 - (iv) that provide for the expulsion, suspension or discipline of the member for conduct inconsistent with just and equitable principles in the transaction of business, or for a contravention of the business rules or listing rules of the approved exchange;
- (c) the class or classes of securities, units in collective investment schemes or derivatives contracts that may be traded on any organised market operated by the approved exchange;
 - (d) the terms and conditions under which securities, units in collective investment schemes or securities-based derivatives contracts may be listed for quotation by the approved exchange;
 - (e) the terms and conditions relating to the calculation of the final settlement price, the daily price limits and the accumulation of derivatives contracts traded on any organised market operated by the approved exchange;
 - (f) the manner in which trades in securities, units in collective investment schemes or derivatives contracts are effected on any organised market operated by the approved exchange;
 - (g) where the approved exchange operates a trading floor, fair and properly supervised floor trading practices;
 - (h) the measures to prevent and deal with manipulation, market rigging and artificial market conditions in any organised market operated by the approved exchange;

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- (i) the arrangements for the safe and efficient clearing and settlement of trades concluded on any organised market operated by the approved exchange;
 - (j) the establishment of any compensation arrangement, or any other scheme or system accepted by the Authority, which would compensate any customer who suffers pecuniary loss through the defalcation of a member, or of any of the directors, officers, employees or representatives of a member, in respect of any money or other property —
 - (i) that was entrusted to or received by the member, or any of the directors, officers, employees or representatives of the member, for or on behalf of the customer; or
 - (ii) in respect of which the member was a trustee;
 - (k) the dissemination of announcements by companies listed on any organised market operated by the approved exchange through a single and central facility; and
 - (l) the carrying on of business of the approved exchange with due regard to the interests and protection of the investing public.

Amendment of business rules and listing rules

18.—(1) For the purposes of section 23(2) of the Act, an approved exchange that proposes to amend its business rules or listing rules must, before making the amendment, notify the Authority of —

- (a) the proposed amendment;
 - (b) the purpose of the proposed amendment; and
 - (c) the date on which the approved exchange proposes that the amendment be brought into force.
- (2) The approved exchange must, before notifying the Authority of the proposed amendment under paragraph (1), consult the participants of the approved exchange on the proposed amendment,

unless the proposed amendment would have limited impact on those participants.

(3) Subject to paragraph (4), the date mentioned in paragraph (1)(c) must be at least 21 days after the date on which the Authority receives the notification mentioned in paragraph (1).

(4) The Authority may, on its own initiative or on the application of the approved exchange, by giving written notice to the approved exchange, allow an amendment to come into force less than 21 days after the date on which the Authority receives the notification mentioned in paragraph (1).

(5) The Authority may, on its own initiative, by giving written notice to the approved exchange, require an amendment to come into force on a date later than the date mentioned in paragraph (1)(c).

(6) The Authority may, by giving written notice to the approved exchange, disallow, alter or supplement the whole or any part of the proposed amendment mentioned in paragraph (1)(a).

(7) The Authority must give the written notice mentioned in paragraph (6) to the approved exchange —

- (a) within 21 days after being notified under paragraph (1) of the proposed amendment mentioned in paragraph (1)(a); or
- (b) if the Authority has given written notice under paragraph (5), before the later date mentioned in that paragraph.

(8) If the Authority disallows, alters or supplements under paragraph (6) the whole or any part of the proposed amendment mentioned in paragraph (1)(a), that whole or part (as the case may be) of that proposed amendment —

- (a) if disallowed, does not come into force; and
- (b) if altered or supplemented, comes into force, as altered or supplemented, on a date specified by the Authority in the written notice mentioned in paragraph (6).

Division 3 — Matters requiring approval of Authority

Application and criteria for approval to acquire substantial shareholding

19.—(1) Any person applying for approval under section 27(1) or (2) of the Act must submit to the Authority a written application that sets out —

- (a) the name of the applicant;
- (b) in the case where the applicant is a corporation —
 - (i) its place of incorporation;
 - (ii) its substantial shareholders;
 - (iii) its directors and chief executive officer; and
 - (iv) its principal business;
- (c) in the case where the applicant is an individual —
 - (i) the applicant’s nationality;
 - (ii) the applicant’s principal occupation; and
 - (iii) the applicant’s directorships;
- (d) all the corporations in which the applicant has a substantial shareholding;
- (e) the percentage of shareholding and voting power that the applicant has in the approved exchange;
- (f) the percentage of shareholding and voting power the applicant is seeking to obtain in the approved exchange;
- (g) the reasons for making the application;
- (h) the mode and structure, as appropriate, under which —
 - (i) the increase in shareholding will be carried out; and
 - (ii) the increased shareholding will be held;
- (i) whether the applicant will seek representation on the board of directors of the approved exchange; and

- (j) any other information that may facilitate the determination by the Authority as to whether the applicant is a fit and proper person for the purposes of paragraph (3)(a).

(2) The Authority may require any person who applies for approval under section 27(1) or (2) of the Act to provide the Authority with further information or documents for the purposes of assessing the application, and that person must comply with that requirement.

(3) The Authority may grant its approval for the purposes of section 27(1) or (2) of the Act if the Authority is satisfied that —

- (a) the applicant is a fit and proper person to be a substantial shareholder, 12% controller or 20% controller (as the case may be) of the approved exchange;
- (b) having regard to the applicant's likely influence, the approved exchange will, or will continue to, conduct its business prudently and in compliance with the provisions of the Act; and
- (c) it would not be contrary to the interests of the public to grant the approval.

(4) In paragraph (3), “12% controller” and “20% controller” have the meanings given by section 27(3) of the Act.

Approval of chairman, chief executive officer, director and key persons

20.—(1) For the purposes of section 28(4) of the Act, the Authority may, in determining whether to grant its approval under section 28(1) or (2) of the Act, have regard to the following criteria:

- (a) whether the person is fit and proper to be appointed as chairman, chief executive officer or director (as the case may be) of the approved exchange;
- (b) whether the appointment of the person would be consistent with any applicable written law relating to —
 - (i) the qualifications for the position; or

- (ii) the requirements for the composition of the board of directors or any committee of the approved exchange;
- (c) whether it would be contrary to the interests of the public to grant the approval.

(2) The Authority may require an approved exchange that applies for approval under section 28(1) or (2) of the Act to provide the Authority with further information or documents for the purposes of assessing the application, and the approved exchange must comply with that requirement.

PART 4

REGULATION OF RECOGNISED MARKET OPERATORS

Obligation to notify Authority of certain matters

21. For the purposes of section 34(1)(c)(i) of the Act, the other matters that a recognised market operator must notify the Authority of are as follows:

- (a) any civil or criminal legal proceeding instituted against the recognised market operator, whether in Singapore or elsewhere, that may have a material impact on the operations or finances of the recognised market operator;
- (b) any disciplinary action taken against the recognised market operator by any regulatory authority, whether in Singapore or elsewhere, other than the Authority;
- (c) any material change to the regulatory requirements imposed on the recognised market operator by any regulatory authority, whether in Singapore or elsewhere, other than the Authority;
- (d) any material disruption, material suspension or material termination of, or delay in, any trading procedure or trading practice of the recognised market operator (including any material disruption, suspension, termination or delay resulting from any system failure);

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- (e) the recognised market operator becoming aware of any acquisition or disposal by any person of a substantial shareholding in the recognised market operator;
 - (f) any compromise of the integrity or security of the transmission or storage of any user information of the recognised market operator;
 - (g) any action taken or intended to be taken to restore the integrity and security of the transmission and storage of that user information.

Obligation to submit periodic reports

22. For the purposes of section 37 of the Act, a recognised market operator must submit to the Authority, within 3 months after the end of each financial year of the recognised market operator or such longer period as the Authority may permit, a copy of its audited financial statements for that financial year.

Exceptions to obligation to maintain confidentiality

23.—(1) For the purposes of section 39(2)(a) of the Act, section 39(1) of the Act does not apply to the disclosure of user information by a recognised market operator or its officers or employees for the following purposes or in the following circumstances:

- (a) where the disclosure of user information —
 - (i) is necessary for the making of a complaint or report under any written law of an offence alleged or suspected to have been committed under that written law; and
 - (ii) is made for that purpose;
- (b) where the disclosure of user information —
 - (i) is permitted for a purpose specified in writing by the user or, if the user has died, by the user's personal representative; and
 - (ii) is made for that purpose;

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- (c) where the holding company (if any) of the recognised market operator is the approved holding company of an approved exchange, a licensed trade repository or an approved clearing house, and the disclosure of user information is made to that holding company;
- (d) where the disclosure of user information —
- (i) is necessary for the execution by the recognised market operator of a transaction in any securities, units in collective investment schemes or derivatives contracts or for the clearing or settlement of a transaction; and
 - (ii) is made only to another user who is —
 - (A) a party to the transaction; or
 - (B) a member of an approved exchange, an approved clearing house or a recognised clearing house through which that transaction is executed, cleared or settled;
- (e) where the disclosure of user information —
- (i) is necessary in disciplinary proceedings of the recognised market operator; and
 - (ii) is made for that purpose;
- (f) where the disclosure of user information —
- (i) is necessary for the publication of information on disciplinary proceedings, or on the outcome of disciplinary proceedings, of the recognised market operator; and
 - (ii) is made for that purpose;
- (g) where the user information that is disclosed is in the public domain;
- (h) where the recognised market operator enters into a contract for service (including a contract for service to perform one or more functions of the recognised market operator, a contract for service to create, install or maintain one or

more systems of the recognised market operator, or a contract for service to provide legal, consulting or professional services to the recognised market operator) with a person, and the disclosure of user information —

- (i) is necessary for the performance of that contract for service; and
 - (ii) is made to that person for the purpose of the performance of that contract for service;
- (i) where the disclosure of user information —
- (i) is necessary, or is required by the Public Trustee, the Commissioner of Estate Duties or the equivalent in a foreign jurisdiction of the Public Trustee or the Commissioner of Estate Duties, for the purpose of —
 - (A) an application for a grant of probate or letters of administration, or the resealing of a grant of probate or letters of administration, in relation to the estate of a deceased user; or
 - (B) the administration of the estate of a deceased user; and
 - (ii) is made for that purpose;
- (j) where the disclosure of user information is made in connection with —
- (i) the bankruptcy of a user who is an individual; or
 - (ii) the winding up, receivership or judicial management of a user that is a body corporate.

(2) Where user information is disclosed under paragraph (1)(e), the recognised market operator must take reasonable steps to ensure that the person to whom the disclosure is made uses that user information only for the purpose of any disciplinary proceeding of the recognised market operator.

(3) Where user information is disclosed under paragraph (1)(h), the recognised market operator must —

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- (a) maintain, and make available for inspection by the Authority, a record of —
 - (i) the circumstances relating to the disclosure of user information; and
 - (ii) the particulars of the contract for service mentioned in paragraph (1)(h); and
 - (b) take reasonable steps to ensure that the person to whom the disclosure is made (called in this paragraph *A*) —
 - (i) uses that user information only for the purpose of performing the contract for service mentioned in paragraph (1)(h); and
 - (ii) does not further disclose that user information to any other person (called in this paragraph *B*) unless —
 - (A) the recognised market operator consents to the further disclosure;
 - (B) *A* maintains, and makes available for inspection by the Authority, a record of the circumstances relating to the further disclosure; and
 - (C) *A* takes reasonable steps to ensure that *B* uses that user information only for the purpose of performing the contract for service mentioned in paragraph (1)(h).

Business continuity plan

24.—(1) A recognised market operator must maintain at all times a plan of action setting out the procedures, and establishing the systems, necessary to restore, in the event of any disruption to the operations of any organised market that it operates, fair, orderly and transparent operations of that organised market.

(2) A recognised market operator must review the procedures and systems mentioned in paragraph (1) on such regular basis as may be specified in the plan of action mentioned in that paragraph.

Provision of information

25. A recognised market operator must make available at no cost to any person upon that person's request, or publish in a manner that is accessible at no cost, information on —

- (a) all services offered by the recognised market operator;
- (b) all products available on the organised markets operated by the recognised market operator;
- (c) the fees and charges applicable to each product available on an organised market operated by the recognised market operator and each service offered by the recognised market operator;
- (d) the margin requirements applicable to each product available on an organised market operated by the recognised market operator; and
- (e) any arrangement that may be in place to compensate an investor who suffers pecuniary loss as a result of the actions or insolvency of a participant of the recognised market operator.

Transmission and storage of user information

26. A recognised market operator must take all reasonable measures to maintain the integrity and security of the transmission and storage of its user information.

Exemption for certain market operators

27.—(1) Any person, who establishes or operates an organised market that satisfies both of the requirements in paragraph (2), is exempt from section 7(1) of the Act in respect of that organised market.

- (2) The requirements mentioned in paragraph (1) are as follows:
 - (a) every member of the organised market mentioned in paragraph (1) is an accredited investor, expert investor or institutional investor;

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- (b) no offer or invitation to sell, purchase or exchange is made on the organised market mentioned in paragraph (1) other than offers or invitations to sell, purchase or exchange any of the following:
- (i) any over-the-counter derivatives contract, the underlying thing of which is a commodity;
 - (ii) any block futures contract —
 - (A) the underlying thing of which is a commodity; and
 - (B) which is listed for trading on any approved exchange, recognised market operator or overseas exchange.

(3) In this regulation, “block futures contract” has the meaning given by paragraph 1 of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg 10).

PART 5

MISCELLANEOUS

Criteria for determining whether officer failed to discharge duties or functions

28. For the purposes of section 43(3) of the Act, the Authority may, in determining whether an officer of an approved exchange or a recognised market operator has failed to discharge the duties or functions of the officer’s office or employment for the purposes of section 43(1)(c) of the Act, have regard to the following criteria:

- (a) whether the officer has taken reasonable steps to ensure the proper functioning of the approved exchange or recognised market operator, as the case may be;
- (b) whether the officer has taken reasonable steps to ensure the compliance of the approved exchange or recognised market operator (as the case may be) with all relevant laws of any jurisdiction in which it is incorporated or in which it operates;

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- (c) whether the officer has taken reasonable steps to specify, and ensure compliance with, written policies on all operational areas of the approved exchange or recognised market operator (as the case may be), including financial policies, accounting and internal controls, internal auditing policies and policies ensuring compliance with all relevant laws of any jurisdiction in which it is incorporated or in which it operates;
 - (d) whether the officer has taken reasonable steps to identify, monitor and address the risks associated with the business activities of the approved exchange or recognised market operator, as the case may be;
 - (e) whether the officer has taken reasonable steps to ensure that the business activities of the approved exchange or recognised market operator (as the case may be) are subject to adequate internal audit;
 - (f) whether the officer has taken reasonable steps to oversee, by setting out proper delegation limits and risk management controls, the financial undertakings and exposure to risks of any nature of the approved exchange or recognised market operator, as the case may be;
 - (g) whether the officer has taken reasonable steps to ensure that the approved exchange or recognised market operator (as the case may be) maintains written records of the steps taken by it to monitor compliance with its policies, the limits on discretionary powers and its accounting and operating procedures;
 - (h) whether the officer has taken reasonable steps to ensure that every report, return or statement submitted by the approved exchange or recognised market operator (as the case may be) to the Authority is complete and accurate.

Offences

29.—(1) Any corporation that contravenes regulation 5, 8(4), 10(2) or (3), 11, 13, 14, 15, 18(2), 20(2), 23(2) or (3), 24, 25 or 26 shall be guilty of an offence and shall be liable on conviction to a fine not

exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part of a day during which the offence continues after conviction.

(2) Section 333(1) of the Act does not apply to any offence mentioned in paragraph (1).

PART 6

REVOCATION AND SAVING AND TRANSITIONAL PROVISIONS

Revocation

30. The Securities and Futures (Markets) Regulations 2005 (G.N. No. S 367/2005) are revoked.

Saving and transitional provisions

31.—(1) Despite regulation 30, where any circumstance mentioned in regulation 9(1) of the Securities and Futures (Markets) Regulations 2005 as in force immediately before 8 October 2018 occurs, but is not notified to the Authority before that date, the approved exchange must comply with regulation 9(1) and (2) of those Regulations in relation to that circumstance as if these Regulations had not been made.

(2) Despite regulation 30, where an approved exchange makes any material change to its business continuity plan before 8 October 2018 and does not inform the Authority of that change before that date, the approved exchange must comply with regulation 12(4) of the Securities and Futures (Markets) Regulations 2005 as in force immediately before that date in relation to that change as if these Regulations had not been made.

(3) Despite regulation 30, where an approved exchange has notified the Authority before 8 October 2018 of a proposed amendment to the business rules or listing rules of the approved exchange under regulation 19(1) of the Securities and Futures (Markets) Regulations 2005 as in force immediately before that date, and that proposed amendment does not come into force before that date, regulation 19(3), (4), (5) and (6) of those Regulations continues to

apply in relation to that proposed amendment as if these Regulations had not been made.

(4) Despite regulation 30, where a recognised market operator specified in the Second Schedule to the Securities and Futures (Markets) Regulations 2005 as in force immediately before 8 October 2018 takes any disciplinary action against any participant in Singapore before that date, but does not notify the Authority of the disciplinary action before that date, the recognised market operator must comply with regulation 28(d) of those Regulations as if these Regulations had not been made.

THE SCHEDULE

Regulation 4

FEES

PART 1

APPLICATION FEE AND ANNUAL FEE

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|---|--|
| 1. For every application for approval as an approved exchange, or recognition as a recognised market operator, under section 8(1) or (2) of the Act | \$4,000 |
| 2. Annual fee under section 11(1) of the Act — | |
| (a) subject to paragraph (b), for every approved exchange that establishes or operates one or more organised markets for trading in derivatives contracts other than securities-based derivatives contracts, if the total number of derivatives contracts traded on all organised markets operated by that approved exchange in the immediately preceding calendar year was — | |
| (i) less than 50 million | \$250,000 for every 12-month period starting on 1 July |
| (ii) 50 million or more but not more than 100 million | \$500,000 for every 12-month period starting on 1 July |

 THE SCHEDULE — *continued*

(iii) more than 100 million	\$750,000 for every 12-month period starting on 1 July
(b) for every approved exchange that establishes or operates one or more organised markets for trading in derivatives contracts other than securities-based derivatives contracts, for the period starting on the date of its approval under section 9(1)(a) of the Act and ending on —	The amount computed in accordance with the formula in paragraph 1 of Part 2 of this Schedule
(i) if the date of approval is between 1 January and 30 June (both dates inclusive) — 30 June of the same calendar year; or	
(ii) if the date of approval is between 1 July and 31 December (both dates inclusive) — 30 June of the next calendar year	
(c) subject to paragraph (d), for every approved exchange that establishes or operates one or more organised markets for trading in securities, securities-based derivatives contracts or units in a collective investment scheme, if the total value of securities, securities-based derivatives contracts and units in a collective investment scheme traded on all organised markets operated by that approved exchange in the immediately preceding calendar year was —	
(i) less than \$200 billion	\$250,000 for every 12-month period starting on 1 July
(ii) \$200 billion or more but not more than \$400 billion	\$500,000 for every 12-month period starting on 1 July

 THE SCHEDULE — *continued*

(iii) more than \$400 billion	\$750,000 for every 12-month period starting on 1 July
(d) for every approved exchange that establishes or operates one or more organised markets for trading in securities, securities-based derivatives contracts or units in a collective investment scheme, for the period starting on the date of its approval under section 9(1)(a) of the Act and ending on —	The amount computed in accordance with the formula in paragraph 1 of Part 2 of this Schedule
(i) if the date of approval is between 1 January and 30 June (both dates inclusive) — 30 June of the same calendar year; or	
(ii) if the date of approval is between 1 July and 31 December (both dates inclusive) — 30 June of the next calendar year	
(e) subject to paragraph (g), for every Singapore exchange-traded derivatives contracts market operator	\$20,000
(f) subject to paragraph (g), for every recognised market operator, other than a Singapore exchange-traded derivatives contracts market operator	\$10,000
(g) for every recognised market operator, for the period starting on the date of its recognition under section 9(1)(b) or (2) of the Act and ending on —	The amount computed in accordance with the formula in paragraph 2 of Part 2 of this Schedule
(i) if the date of recognition is between 1 January and 30 June (both dates inclusive) — 30 June of the same calendar year; or	

THE SCHEDULE — *continued*

- (ii) if the date of recognition is between 1 July and 31 December (both dates inclusive) — 30 June of the next calendar year
3. For every application by an approved exchange or a recognised market operator to change its status under section 12(1) of the Act \$1,000
4. For every application for approval to acquire a substantial shareholding in, or to become a 12% controller or 20% controller of, an approved exchange under section 27(1) or (2) of the Act \$500

PART 2

FORMULAE FOR ITEM 2(b), (d) AND (g) OF PART 1

1. For the purposes of item 2(b) and (d) of Part 1 of this Schedule, the formula is $\frac{A}{365} \times \$250,000$, where A is the number of days in the period mentioned in item 2(b) and (d), respectively.

2. For the purposes of item 2(g) of Part 1 of this Schedule, the formula is $\frac{C}{365} \times D$, where —

(a) C is the number of days in the period mentioned in item 2(g); and

(b) D is —

(i) in the case of any Singapore exchange-traded derivatives contracts market operator — \$20,000; or

(ii) in the case of any other recognised market operator — \$10,000.

Made on 26 September 2018.

RAVI MENON
Managing Director,
Monetary Authority of Singapore.

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