

SECURITIES AND FUTURES (LICENSING AND CONDUCT OF BUSINESS) REGULATIONS 2002

In exercise of the powers conferred by sections 2 (1), 84, 85, 87, 90, 91, 93 to 97, 99, 100, 102, 104, 118, 120, 123, 128, 337, 339 (3) and 341 of the Securities and Futures Act 2001, the Monetary Authority of Singapore hereby makes the following Regulations:

PART I PRELIMINARY

Citation and commencement

1. (1) These Regulations may be cited as the Securities and Futures (Licensing and Conduct of Business) Regulations 2002 and shall, with the exception of regulation 54, come into operation on 1st October 2002.

(2) Regulation 54 shall come into operation on 1st April 2003.

Definitions

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

"advertisement" means a dissemination or conveyance of information, or an invitation or solicitation, by any means or in any form, including by means of -

(a) publication in a newspaper, magazine, journal or other periodical;

(b) display of posters or notices;

(c) circulars, handbills, brochures, pamphlets, books or other documents;

(d) letters addressed to individuals or bodies;

(e) photographs or cinematograph films; or

(f) sound broadcasting, television, the Internet or other media;

"bond" includes -

(a) any note, bond or Treasury Bill;

(b) an option in respect of any note, bond or Treasury Bill; and

(c) such other securities or class of securities as the Authority may from time to time, by a guideline issued by the Authority, determine;

"Government securities" means securities issued or proposed to be issued by the Government, and includes -

(a) any debenture, stock or bond issued or proposed to be issued by the Government;

(b) any right or option in respect of any debenture, stock or bond referred to in paragraph (a);

(c) book-entry Government securities as defined in section 2 of the Development Loan (1987) Act (Cap. 81A) or section 2 of the Government Securities Act (Cap. 121A); and

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

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

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

(a) against any transaction for purposes of set-off;

(b) by delivery of the commodity underlying the futures contract or leveraged foreign exchange transaction;

(c) by settlement of the futures contract or leveraged foreign exchange transaction in accordance with the rules of a futures exchange or a clearing house or the practices of a futures market, a foreign exchange market or a recognised trading system provider, as the case may be;

(d) in the case of a futures contract, by substituting the futures contract with cash commodity; or

(e) in the case of a leveraged foreign exchange transaction, by substituting the leveraged foreign exchange transaction for a futures contract;

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

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

PART II LICENSING AND RELATED MATTERS

Forms

3. (1) The forms mentioned in these Regulations are those set out in the First Schedule.

(2) Where any provision of Parts IV to VII of the Act or these Regulations provides for the lodgment of a document with the Authority, that document shall be lodged with the Authority in the relevant form.

(3) A form prescribed by 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 that is not completed in accordance with this regulation.

Change of place at which register of interests in securities is kept

4. Where there is a change in the place at which a person keeps the register of his interests in securities under section 132 (1) of the Act, the person shall -

(a) where the person is the holder of a capital markets services licence, lodge a notice in Form 10; or

(b) where the person is the holder of a representative's licence, lodge a notice in Form 9 or 10, as appropriate.

Change of particulars of representative

5. Where a change subsequently occurs to any particulars entered in Part III or VI of Form 3 in relation to an application to act as a representative, the representative shall notify the Authority of such change in Form 16 within 14 days after such change.

Fees

6. (1) The application fees payable to the Authority under sections 84 (3) and 90 (2) of the Act shall be as follows:

(a) in respect of an application for a capital markets services licence, \$1,000;

(b) in respect of an application for the renewal of a capital markets services licence, \$500;

(c) in respect of an application for a representative's licence, \$200;

(d) in respect of an application for the renewal of a representative's licence, \$100;

(e) in respect of an application for the variation of a capital markets services licence, \$500;

(f) in respect of an application for the variation of a representative's licence, \$100.

(2) The licence fee for a period of one year or part thereof payable to the Authority under section 85 of the Act by the holder of a capital markets services licence in respect of a regulated activity shall be as follows:

(a) for dealing in securities -

(i) where the holder is a member of the Singapore Exchange Securities Trading Limited, \$8,000; or

(ii) where the holder is any other person, \$4,000;

(b) for fund management, \$4,000;

(c) for advising on corporate finance, \$4,000;

(d) for trading in futures contracts, \$2,000;

(e) for leveraged foreign exchange trading, \$2,000;

(f) for securities financing, \$2,000;

(g) for custodial services for securities, \$2,000.

(3) Where the holder of a capital markets services licence is licensed to carry on business in more than one regulated activity, the amount of the licence fee payable to the Authority shall be the

sum of the fees specified in paragraph (2) for the regulated activities that the holder is licensed to carry out.

(4) The licence fee for a period of one year or part thereof payable to the Authority under section 85 of the Act by the holder of a representative's licence shall be as follows:

(a) where the licence relates to dealing in securities and the principal is -

(i) a member of the Singapore Exchange Securities Trading Limited, \$800; or

(ii) any other person, \$300;

(b) where the licence relates to fund management, \$300;

(c) where the licence relates to advising on corporate finance, \$300;

(d) where the licence relates to trading in futures contracts, \$300;

(e) where the licence relates to leveraged foreign exchange trading, \$300.

(5) Where the holder of a representative's licence is licensed for more than one regulated activity in relation to the same principal, the licence fee payable to the Authority shall be an amount equivalent to the higher or, as the case may be, highest of the fees specified in paragraph (4) for the regulated activities that the holder is licensed to carry out.

(6) The Authority may, as it thinks fit, waive the whole or any part of the licence fee payable by the holder of a capital markets services licence or a representative's licence.

(7) Where the holder of a capital markets services licence or a representative's licence fails to pay the licence fee by the day on which the fee is due as determined in accordance with a guideline issued by the Authority, the Authority may impose a late payment fee not exceeding \$100 for every day or part thereof that the payment is late, subject to a maximum of \$3,000.

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

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

7. (1) The Authority shall not grant or renew a capital markets services licence of a person (other than a member of a securities exchange) to carry on business in dealing in securities unless, at the time of the application for such grant or renewal, the person has lodged with the Authority, in such manner as the Authority may determine, a deposit of \$100,000.

(2) The deposit referred to in paragraph (1) shall be lodged with the Authority in cash or in the form of a banker's guarantee issued by a bank licensed under the Banking Act (Cap. 19).

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

(a) entrusted to or received by the holder or agent for or on behalf of any other person; or

(b) entrusted to or received by -

(i) the holder, as trustee (whether or not with any other person) of that money or property; or

(ii) the agent as trustee of, or on behalf of the trustee of, that money or property.

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

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

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

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

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

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

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

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

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

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

(b) disallow any improper claim.

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

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

Return of deposit

8. (1) Where -

(a) the holder of a capital markets services licence to deal in securities which has lodged with the Authority a deposit under regulation 7 ceases to carry on business in dealing in securities;

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

(c) the holder of a capital markets services licence to deal in securities is admitted as a member of a securities exchange after it has been granted the licence,

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

(i) in the case of sub-paragraph (a), on the expiration of 3 months after service on the Authority of a notice in writing duly signed by or on behalf of the holder stating that it has ceased to carry on such business in Singapore and on the Authority being satisfied that the holder has not, from the date of cessation of business indicated on the notice, carried on such business in Singapore; and

(ii) in every case, on the Authority being satisfied that all the liabilities in Singapore of the holder in respect of its dealing in securities are fully liquidated or provided for.

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

Lapsing of licence

9. For the purposes of section 95 (1) (c) of the Act, where the Authority has not revoked a capital markets services licence or representative's licence under section 95 (2) (a) (ii) or (b) (ii) of the Act, as the case may be, or suspended the capital markets services licence or representative's licence under section 95 (3) of the Act, the licence shall lapse -

(a) in the case of the capital markets services licence, where -

(i) the holder has not commenced business in at least one of the regulated activities to which the licence relates within 6 months (or such longer period as the Authority may allow) from the date of the grant of the licence; or

(ii) the holder has ceased to carry on business in all of the regulated activities to which the licence relates, has not resumed business in any of those regulated activities for a continuous period of 2 months from the date of cessation, and has not notified the Authority of

such cessation at any time during the period of 2 months from the date of cessation; or

(b) in the case of the representative's licence, where -

(i) the holder has not commenced to act as a representative in carrying on business in at least one of the regulated activities to which the licence relates within 6 months (or such longer period as the Authority may allow) from the date of the grant of the licence;

(ii) the holder has ceased to act as a representative in carrying on business in all of the regulated activities to which the licence relates, has not resumed acting as a representative in carrying on business in any of those regulated activities for a continuous period of one month from the date of cessation, and has not notified the Authority of such cessation at any time during the period of one month from the date of cessation; or

(iii) the holder has notified the Authority of his cessation to act as a representative in carrying on business in all of the regulated activities to which his licence relates and has not subsequently, at any time until the date on which the holder would otherwise have to pay the licence fee for the licence, notified the Authority that he has resumed to act as a representative of the principal or another principal in respect of any of those regulated activities.

Change of principal

10. (1) The holder of a representative's licence may change his principal in relation to which his licence was granted by lodging with the Authority a notice in Form 9 and returning his licence to the Authority for cancellation.

(2) For the avoidance of doubt, paragraph (1) shall apply also to the holder of a representative's licence who has ceased to act as a representative in carrying on business in all of the regulated activities to which his licence relates, unless his licence has lapsed under regulation 9 (b) (iii).

(3) The holder may act as a representative of his new principal in carrying on business in any regulated activity to which the licence referred to in paragraph (1) relates from the date of the change of principal indicated on the notice in Form 9 lodged with the Authority.

(4) The Authority shall, unless the licence of the representative has lapsed, has been revoked or suspended or has expired in the

meantime, issue a new licence to the representative with the name of the new principal specified on the licence.

Return of licence

11. (1) Where the holder of a capital markets services licence ceases to carry on business in all of the regulated activities to which its licence relates, the holder and its representatives who cease to act as representatives as a result of such cessation shall lodge with the Authority a notice in Form 7 and, together with the Form, return their licences to the Authority.

(2) Where the holder of a capital markets services licence ceases to carry on business in any of the regulated activities to which its licence relates, the holder and its representatives who cease to act as representatives in respect of that regulated activity as a result of such cessation shall lodge with the Authority a notice in Form 7 and, together with the Form, return their licences to the Authority; whereupon the Authority shall cancel the licences of the holder and those representatives (other than a representative whose licence relates solely to that regulated activity) and issue to them new licences in respect of any remaining regulated activity or activities.

(3) Where the holder of a representative's licence (other than a representative referred to in paragraph (1) or (2)) ceases to act as a representative in carrying on business in all of the regulated activities to which his licence relates, he shall lodge with the Authority a notice in Form 8 and, together with the Form, return his licence to the Authority.

(4) Where the holder of a representative's licence (other than a representative referred to in paragraph (2)) ceases to act as a representative in carrying on business in any of the regulated activities to which his licence relates, he shall lodge with the Authority a notice in Form 8 and, together with the Form, return his licence to the Authority for cancellation and the Authority shall issue to the holder a new licence in respect of the remaining regulated activity or activities.

(5) Where the holder of a capital markets services licence has not commenced business in any of the regulated activities to which the licence relates within 6 months of being granted the licence (or such longer period as the Authority may allow), the holder shall immediately return its licence to the Authority for cancellation and, where applicable, the Authority shall issue to the holder a new licence in respect of the remaining regulated activity or activities.

(6) Where the holder of a representative's licence has not commenced to act as a representative of his principal in carrying on business in any of the regulated activities to which the licence relates within 6 months of being granted the licence (or such longer period as the Authority may allow), the holder shall immediately return his licence to the Authority for cancellation and, where applicable, the Authority shall issue to the holder a new licence in respect of the remaining regulated activity or activities.

(7) Where the application of a licensed person for the variation of his licence under section 90 of the Act has been approved by the Authority, the person shall immediately return his licence to the Authority for cancellation and the Authority shall issue a new licence to the licensed person.

(8) Where the Authority varies any condition or restriction imposed on a licence or imposes further conditions or restrictions on a licence, the licensed person shall immediately return the licence to the Authority for cancellation and the Authority shall issue a new licence to the licensed person.

Application for appointment of chief executive officer and director

12. (1) For the purposes of section 96 (1) of the Act, the holder of a capital markets services licence shall submit to the Authority an application for approval of the appointment of a person (referred to in this regulation as the appointee) as its chief executive officer or director in Singapore in Form 11.

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

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

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

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

(d) whether the appointee has, in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his creditors,

being a compromise or scheme of arrangement that is still in operation;

(e) whether the appointee -

(i) has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; or

(ii) has been convicted of an offence under the Act;

(f) the educational or other qualification, experience or expertise of the appointee, having regard to the nature of the duties he is to perform as a chief executive officer or director, as the case may be, of the holder;

(g) whether the appointee is a fit and proper person to be a chief executive officer or director, as the case may be, of the holder;

(h) the financial standing of the appointee;

(i) the past performance of the appointee, having regard to the nature of the duties he is to perform as a chief executive officer or director, as the case may be, of the holder; and

(j) whether there is reason to believe that the appointee will not conduct himself professionally or act in an ethical manner in discharging the duties he is to perform as a chief executive officer or director, as the case may be, of the holder.

Duties of chief executive officer and director

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

(a) implemented, and ensured compliance with, effective written policies on all operational areas of the holder, including the holder's financial policies, accounting and internal controls, internal auditing and compliance with all laws and rules governing the holder's operations;

(b) identified, addressed and monitored the risks associated with the trading or business activities of the holder;

(c) ensured that the business activities of the holder are subject to adequate internal audit;

(d) set out in writing the limits of the discretionary powers of each officer, committee, sub-committee or other group of persons of the holder empowered to commit the holder to any financial undertaking or to expose the holder to a risk of any nature; and

(e) ensured -

(i) that the holder keeps a written record of the steps taken by it to monitor compliance with its policies, the limits on discretionary powers and its accounting and operating procedures;

(ii) that the internal audit of the holder or the holder's holding company includes inquiring into the holder's compliance with all relevant laws and all relevant business rules of any securities exchange, futures exchange and clearing house; and

(iii) the accuracy, correctness and completeness of any report, book or statement submitted by the holder to its head office (if any) or to the Authority.

Exemptions from requirement to hold licence

14. (1) Each person specified in the Second Schedule is exempted from holding a capital markets services licence or a representative's licence, as the case may be, to the extent specified in that Schedule.

(2) For the purposes of section 99 (2) of the Act and without prejudice to any other matter that the Authority may consider relevant, the Authority shall, in deciding whether to grant an exemption from the requirement to hold a capital markets services licence to a securities exchange, futures exchange or recognised trading system provider which intends to carry on business in a regulated activity, have regard to whether the size of the regulated activity exceeds 10% of the entire business of the securities exchange, futures exchange or recognised trading system provider, as the case may be, in terms of revenue and manpower.

(3) A securities exchange, futures exchange or recognised trading system provider which applies for exemption from the requirement to hold a capital markets services licence under section 99 (2) of the Act shall provide the following information relating to its proposed business in a regulated activity:

(a) the type of regulated activity to be carried out, the business model, the type of customers and the internal controls in place to mitigate any potential conflict of interest;

(b) details of key personnel (including names, addresses, relevant experience, qualifications) responsible for the conduct of that regulated activity;

(c) the amount of revenue generated or to be generated by that regulated activity and its size as a percentage of the total revenue of the securities exchange, futures exchange or recognised trading system provider; and

(d) the manpower required for the conduct of that regulated activity in total and such manpower as a percentage of the total manpower of the securities exchange, futures exchange or recognised trading system provider.

(4) A securities exchange, futures exchange or recognised trading system provider which is granted an exemption under section 99 (2) of the Act shall, within 5 months from the end of every financial year or such extension thereof permitted by the Authority, submit an auditor's statement in Form 12 as to its compliance or otherwise with the conditions and restrictions imposed by the Authority for the grant of the exemption.

PART III
CUSTOMER'S MONEYS AND ASSETS
Division 1 - Definitions

Definitions of this Part

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

(a) the holder in carrying out any regulated activity for its own account;

(b) an officer, an employee or a representative of the holder; or

(c) a related corporation of the holder with respect to an account belonging to and maintained wholly for the benefit of that related corporation.

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

(a) money received from, or on account of, the customer in respect of a sale or purchase of futures contract or a transaction connected with leveraged foreign exchange trading;

(b) money received from, or on account of, the customer for the purchase of or holding of securities, or the maintenance of a securities trading account by the customer;

(c) money received for the account of the customer in respect of a sale of securities;

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

(e) money received from, or on account of, the customer for the purpose of managing the customer's funds; and

(f) money received from, or on account of, the customer in the course of the business of the holder,

but does not include -

(i) money which is to be used to reduce the amount owed by the customer to the holder;

(ii) money which is to be paid to the customer or in accordance with the customer's written direction;

(iii) money which is to be used to defray the holder's brokerage and other proper charges; and

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

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

Division 2 - Customer's Moneys

Money received on account of customer

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

(a) shall treat and deal with all moneys received on account of its customer as belonging to that customer;

(b) shall deposit all moneys received on account of its customer in a trust account or in any other account directed by the customer; and

(c) shall not commingle moneys received on account of its customer with its own funds, or use the moneys as margin or guarantee for, or to secure any transaction of, or to extend the credit of, any person other than the customer.

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

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

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

Maintenance of trust account with specified financial institutions

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

(a) a bank licensed under the Banking Act (Cap. 19);

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

(c) a finance company licensed under the Finance Companies Act (Cap. 108).

(2) Without prejudice to paragraph (1) and subject to the customer's prior written consent, the holder may, for the purpose of depositing moneys received on account of its customer which are denominated in a foreign currency in a trust account, maintain the trust account with a custodian outside Singapore which is licensed,

registered or authorised to conduct banking business in the country or territory where the account is maintained.

Notification and acknowledgment from specified financial institutions

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

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

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

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

19. Notwithstanding regulations 16 and 17 -

(a) the holder of a capital markets services licence to trade in futures contracts may deposit moneys received on account of its customer with a clearing house, a member of a futures exchange or a member of an overseas futures exchange -

(i) for the purpose of facilitating the continued holding of a futures position or facilitating a transaction in a futures contract to be entered into for the customer;

(ii) for the settlement of a transaction in a futures contract for the customer; or

(iii) for any other purpose specified under the business rules and practices of the clearing house, futures exchange or overseas futures exchange, as the case may be; and

(b) the holder of a capital markets services licence to deal in securities may deposit moneys received on account of its customer with a clearing house or a member of a securities exchange for a

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

Investment of moneys received on account of customers

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

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

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

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

Withdrawal of money from trust account

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

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

Interest arising from trust account, etc.

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

Placement of licensee's own money in trust account

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

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

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

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

No effect on lawful claims or liens

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

Division 3 - Customer's Assets

Application of this Division

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

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

Duties of holder on receipt of customer's assets

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

(a) deposit a customer's assets in a custody account held on trust for the customer;

(b) ensure that the customer's assets are not commingled with any asset belonging to the holder; and

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

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

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

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

Maintenance of custody account with specified custodians

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

(a) a bank licensed under the Banking Act (Cap. 19);

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

(c) a finance company licensed under the Finance Companies Act (Cap. 108);

(d) a depository agent within the meaning of section 130A of the Companies Act (Cap. 50) for the custody of securities listed for quotation or quoted on the Singapore Exchange Securities Trading Limited or deposited with the Central Depository (Pte) Ltd;

(e) an approved trustee for a collective investment scheme within the meaning of section 289 of the Act; or

(f) any person licensed under the Act to provide custodial services for securities.

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

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

Notification and acknowledgment from specified custodians

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

(a) all assets deposited in the custody account are held on trust by the holder for its customer; and

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

Suitability of custodian

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

(a) before opening the custody account, conduct due diligence as to the custodian's suitability for the holder's customer or class of customers; and

(b) maintain records of the grounds on which it has satisfied itself of the suitability of the custodian.

Customer's assets held with clearing house, etc.

30. Notwithstanding regulations 26 and 27 -

(a) the holder of a capital markets services licence to trade in futures contracts may deposit its customer's assets with a clearing house, a member of a futures exchange or a member of an overseas futures exchange -

(i) for the purpose of facilitating the continued holding of a futures position or facilitating a transaction in a futures contract to be entered into for the customer;

(ii) for the settlement of a transaction in a futures contract for the customer; or

(iii) for any other purpose specified under the business rules and practices of the clearing house, futures exchange or overseas futures exchange, as the case may be; and

(b) the holder of a capital markets services licence to deal in securities may deposit its customer's assets with a clearing house or a member of a securities exchange for a purpose specified under the business rules and practices of the clearing house or securities exchange, as the case may be.

Customer agreement

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

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

(a) the arrangements for the giving and receiving of instructions by or on behalf of the customer in respect of the services to be provided including, where applicable, the arrangements for the giving of authority by the customer to another person and the extent of that authority and any limitation thereto;

(b) any lien over or security interest in the assets by the holder or a third party;

(c) the circumstances under which the holder may realise the assets held as collateral to meet the customer's liabilities to the holder;

(d) where the customer's assets are to be held with a custodian other than the holder, the liability of the holder in the event of default by the custodian;

(e) where the holder intends to commingle the customer's assets with those of other customers and maintain such assets with a custodian other than itself, a statement that the customer's interest in the assets may not be identifiable by separate certificates, or other physical documents or equivalent electronic records, and a condition that the holder shall maintain records of the customer's interest in the assets that have been commingled;

(f) the person in whose name the assets are registered;

(g) the arrangements in relation to claiming and receiving dividends, interest payments and other entitlements accruing to the customer, and the exercise of any right and power arising from ownership of the assets;

(h) the arrangements for the provision of information relating to the custody of the asset to the customer; and

(i) all applicable fees and costs for the custody of the assets.

Custody agreement

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

(a) that the account shall be designated as that of the customer or customers;

(b) that the custodian shall hold and record the assets in accordance with the holder's instructions; and the records shall identify the assets as belonging to the holder's customer and the assets shall be kept separate from any asset belonging to the holder or to the custodian;

(c) that the custodian shall not claim any lien, right of retention or sale over any asset standing to the credit of the custody account, except -

(i) where the holder has obtained the customer's written consent and notified the custodian in writing of the written consent; or

(ii) in respect of any charges as agreed upon in the terms and conditions relating to the administration or custody of the asset;

(d) that the custodian shall provide sufficient information to the holder in order that the holder may comply with its record-keeping obligations under the Act or these Regulations or under any other law;

(e) the person in whose name the assets are registered;

(f) that the custodian shall not permit any withdrawal of the assets from the custody account, except for delivery of the assets to the holder or on the holder's written instructions;

(g) the arrangements for dealing with any entitlement arising from the assets in the custody account, such as coupon or interest payment;

(h) the extent of the custodian's liability in the event of any loss of the assets maintained in the custody account caused by fraud or negligence on the part of the custodian or any of the custodian's agents; and

(i) the applicable fees and costs for the custody of the assets.

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

Lending of customer's securities

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

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

(a) explained the risks involved to the customer; and

(b) obtained the customer's written consent to do so.

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

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

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

(a) enter into an agreement with the custodian setting out the terms and conditions for the lending; and

(b) disclose these terms and conditions to the customer.

Mortgage of customer's assets

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

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

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

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

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

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

Withdrawal of customer's assets

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

(a) transferring the asset to any person entitled thereto;

(b) meeting the customer's obligation arising from any dealing in securities, trading in futures contracts or leveraged foreign

exchange trading, as the case may be, by the holder for the customer;

(c) transferring the asset to any person or account in accordance with the customer's written directions;

(d) securities lending in accordance with regulation 33;

(e) mortgaging, charging, pledging or hypothecating the assets in accordance with regulation 34;

(f) making a deposit in accordance with regulation 30; or

(g) making a transfer that is authorised by law.

No effect on lawful claims or liens

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

Division 4 -Miscellaneous

Daily computation for trust accounts and custody accounts

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

(a) the total amount of moneys and assets deposited in its customers' trust accounts and custody accounts respectively;

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

(c) the respective amounts of the holder's residual interest in the trust accounts and custody accounts,

as at the end of such interval.

(2) The holder shall complete the computation referred to in paragraph (1) before noon of the next business day and such

computation with all supporting data shall be kept by the holder for the period specified in section 102 (3) of the Act.

Customer's moneys and assets held by clearing house

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

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

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

(2) In this regulation -

"customer's contract" means -

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

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

"market contract" has the same meaning as in section 49 (1) of the Act.

PART IV CONDUCT OF BUSINESS

Books of holder of capital markets services licence

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

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

(b) the name of any person guaranteeing the settlement of any amount owed in a customer's account in respect of which a regulated activity is carried out by the holder, the name of any person who can give instructions to the holder on the carrying out of a regulated activity with respect to a customer's account, or the

name of any person who has trading authority or exercises any control with respect to a customer's account;

(c) the risk profile of every customer, including financial products which, in the opinion of the holder, are suitable for the customer;

(d) particulars of every transaction carried out on behalf of customers, including -

(i) a description and the quantity of the assets that are the subject of the transaction;

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

(iii) the name of the customer on whose behalf the transaction is entered into;

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

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

(e) a separate record maintained for each customer stating, where applicable -

(i) the amount and description of each asset paid or deposited in the trust account and custody account as required by regulations 16 and 26 respectively and the date of such payment or deposit;

(ii) the date and quantity of each transfer of assets from or to the trust account and custody account arising from any asset borrowing or lending activity or otherwise;

(iii) the date, amount and purpose of each withdrawal from the trust account or custody account; and

(iv) the date and amount of, and the reason for, each disposal of collateral from the trust account or custody account;

(f) particulars of each asset that is not the property of the holder and for which the holder or any nominee controlled by the holder is accountable, indicating by whom and for whom the asset or the document of title to the asset is held and the extent to which it is held for safe custody by a third party or mortgaged, charged, pledged or hypothecated in accordance with regulation 34;

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

- (i) the amount which the holder committed to underwrite;
 - (ii) the amount underwritten due to under-subscription;
 - (iii) the amount allotted to each subscriber;
 - (iv) the amount placed with each placee; and
 - (v) the amount subscribed by each subscriber or placee (including any related company);
 - (h) particulars of every proprietary transaction of the holder including, where applicable -
 - (i) the description and quantity of the assets concerned;
 - (ii) the price and fee arising from the transaction;
 - (iii) the transaction date and settlement or delivery date;
 - (iv) the name of the counterparty to the transaction; and
 - (v) the realised or unrealised gain or loss;
 - (i) particulars of all income and expenses of the holder; and
 - (j) particulars of all assets and liabilities (including contingent liabilities) of the holder and, in the case of assets, showing by whom these assets or the documents of title to these assets are held and, where they are held by some other person, whether or not they are held as security against loans or advances.
- (2) The holder shall also keep books in the English language which contain the following documents, where applicable:
- (a) for each customer, other than one who is an accredited investor, every power of attorney or other document authorising the holder or its representative to operate the account of the customer on a discretionary basis;
 - (b) every written agreement, or copy thereof, entered into by the holder with its customer;
 - (c) every acknowledgment of a customer received under section 128 (1) (b) of the Act which shall be in Form 13;
 - (d) every acknowledgment of a customer received under section 128 (2) of the Act which shall be in Form 14;

- (e) every statement acknowledging receipt of assets from a customer indicating the person in whose name the assets are registered;
- (f) every order, whether filled, unfilled, amended or cancelled, which has been prepared or received in the course of the business of the holder;
- (g) every report, letter, circular, memorandum, publication, advertisement and other literature or advice distributed by the holder to any existing or prospective customer, indicating the date of publication;
- (h) every report, statement, submission, letter, journal, ledger, invoice, and other record, data or memoranda, which has been prepared or received in the course of business of the holder;
- (i) written confirmation of every securities transaction, futures transaction or transaction in connection with leveraged foreign exchange trading and every purchase and sale contract note and statement of account in respect of such transaction, being a transaction to which any of the following is a party:
- (i) the holder;
 - (ii) except where the holder is one referred to in sub-paragraph (iii), an executive director of the holder, if the transaction is a personal transaction of such executive director; and
 - (iii) where the holder is a branch or subsidiary of a foreign company with its head office located outside Singapore, an executive director of the holder who is directly involved in its operations and business, if the transaction is a personal transaction of such executive director;
- (j) written confirmation of every transaction referred to in paragraph (1) (d) prepared by the holder as principal or as agent of a customer, and every purchase and sale contract note and statement of account in respect of such transaction prepared by the holder as principal or as agent of the customer, as the case may be, or received from any other party, whether licensed in Singapore or elsewhere; and
- (k) in respect of every underwriting and placement transaction entered into by the holder, documentation stating the basis of allotment to each subscriber or placee, as the case may be.

Provision of statement of account to customers

40. (1) The holder of a capital markets services licence shall on a monthly basis furnish to each customer a statement of account containing the particulars referred to in paragraph (2), except where there is no change to any of those particulars since the date on which the last statement of account was made up to.

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

(a) securities transactions of the customer and the price at which the transactions are entered into;

(b) futures positions and leveraged foreign exchange positions of the customer and the prices at which the positions are acquired, and the net unrealised profits or losses in all futures positions and leveraged foreign exchange positions of the customer marked to the market;

(c) the status of every asset in the holder's custody held for the customer, including any asset deposited with a third party that is used for securities lending under regulation 33 or held as collateral under regulation 34;

(d) the movement of every asset of the customer, the date of and reasons for such movement, and the amount of the asset involved;

(e) the movement and balance of money received on account of the customer within the meaning of regulation 15 (2); and

(f) a detailed account of all financial charges and credits to the customer's account during the monthly statement period.

(3) Notwithstanding paragraph (1), the holder of a capital markets services licence shall furnish to each customer, at least once every quarter of a calendar year, a statement of account containing, where applicable, the securities transactions, futures positions, leveraged foreign exchange positions and cash balances, if any, of the customer.

(4) Paragraph (3) shall not apply where there is no change to any of the particulars referred to in that paragraph since the date on which the last statement of account referred to in that paragraph was made up to.

(5) Paragraphs (1) and (3) shall not apply to the holder of a capital markets services licence which is a member of a clearing house if the statements of account referred to in those paragraphs

are furnished to the customer by the clearing house or a Depository within the meaning of section 130A of the Companies Act (Cap. 50).

Documentation required by Authority, futures exchange or clearing house

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

Contract notes

42. (1) The holder of a capital markets services licence to deal in securities, trade in futures contracts or carry out leveraged foreign exchange trading shall include, in every contract note to be given under section 118 of the Act, where applicable -

(a) the name or style under which the holder carries on business in dealing in securities, trading in futures contracts or leveraged foreign exchange trading, and the address of the principal place at which the holder carries on the business;

(b) where the holder is entering into the transaction as principal, a statement that it is so acting;

(c) the name and address of the party to whom the contract note is given;

(d) the date on which the transaction is entered into;

(e) in respect of a sale or purchase of securities, the number or amount, and description of the securities that are the subject of the transaction;

(f) in respect of a sale or purchase of futures contract or a transaction connected with leveraged foreign exchange trading, the quantity and type of the futures contract or the amount of foreign exchange that is the subject of the transaction, as the case may be;

(g) in respect of a sale or purchase of securities or futures contract or a transaction connected with leveraged foreign exchange trading, the price per unit of the transaction, the amount of the

consideration for the transaction, the rate and amount of commission (if any) charged for the transaction by the holder and the amount of all stamp duties or other duties or taxes payable in connection with the transaction; and

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

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

Limits for unsecured credit and credit facilities

43. (1) The holder of a capital markets services licence shall not grant, whether directly or indirectly, any unsecured advance, unsecured loan or unsecured credit facility to any of its directors other than a director who is its employee.

(2) Subject to section 119 of the Act and section 162 of the Companies Act (Cap. 50), the holder of a capital markets services licence shall not grant, whether directly or indirectly, any unsecured advance, unsecured loan or unsecured credit facility to any of its officers or employees, other than a director who is not its employee, which in the aggregate and outstanding at any one time exceeds one year's emoluments of such officer or employee.

(3) In this regulation -

"director" , in relation to the holder of a capital markets services licence, means a director of the holder and includes a person associated with or connected to such director;

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

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

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

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

"unsecured advance, unsecured loan or unsecured credit facility" includes -

(a) any advance, loan or credit facility made by the holder of a capital markets services licence to its officer or employee, as the case may be, without security, whether it has been drawn down or not;

(b) in respect of any advance, loan or credit facility made by the holder to its officer or employee, as the case may be, with security, any part thereof which at any time exceeds the market value of the assets constituting that security or, where the Authority is satisfied that there is no established market value for those assets, on the basis of a valuation approved by the Authority; and

(c) any guarantee or performance bond entered into by the holder, or the provision of any security by the holder, in connection with a loan, advance or credit facility made by another party to its officer or employee, as the case may be.

Time stamping requirements

44. (1) The holder of a capital markets services licence to deal in securities, trade in futures contracts or carry out leveraged foreign exchange trading shall, immediately upon receipt of a customer's order for securities, futures contracts or foreign exchange in connection with leveraged foreign exchange trading, or any amendment or cancellation of such an order -

(a) prepare a written record of the customer's instruction therein, including the customer's account identification number and order number; and

(b) record thereon, by time-stamping or any other timing device -

(i) the date and time the order, amendment or cancellation is received, amended or cancelled; and

(ii) where the order, amendment or cancellation is transmitted to a member of a securities exchange, futures exchange, overseas securities exchange or overseas futures exchange, or to the trading floor of such exchange, the date and time the order, amendment or cancellation is transmitted for execution.

(2) The holder of a capital markets services licence to deal in securities, trade in futures contracts or carry out leveraged foreign exchange trading shall, immediately upon the execution of a customer's order, prepare a written record of the transaction, including the customer's account identification number and order number, and shall record thereon, by time-stamping or any other timing device, the date and time the order is executed.

Securities borrowing and lending

45. (1) The holder of a capital markets services licence which -

(a) borrows securities from an owner of those securities (referred to in this regulation as the lender); or

(b) lends securities, including securities belonging to its customer, to a person (referred to in this regulation as the borrower),

in the ordinary course of its business for which it is licensed, shall ensure that the terms and conditions of the borrowing or lending, as the case may be, is recorded in a prior written agreement entered into between the holder and the lender or borrower or their duly authorised agent, as the case may be.

(2) The holder shall deposit with the lender collateral for the purpose of borrowing securities from the lender.

(3) The holder shall obtain from the borrower collateral for the purpose of lending securities, including securities belonging to the holder's customer, to the borrower.

(4) For the purposes of paragraphs (2) and (3), the collateral deposited with the lender or obtained from the borrower, as the case may be, shall, throughout the period that the securities are borrowed or lent, have a value not less than 100% (or such higher percentage as agreed between the holder and the lender or borrower, as the case may be) of the market value of the securities borrowed or lent.

(5) Collateral deposited with the lender or obtained from the borrower, as the case may be, shall be in the form of cash, Government securities, marginable securities or such other instruments as the Authority may from time to time, by a guideline issued by the Authority, determine.

(6) This regulation shall not apply to the holder of a capital markets services licence when lending securities of a customer who is an accredited investor to a person who is an accredited investor

or when borrowing securities from or lending securities to a person who is an accredited investor.

(7) In this regulation -

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

"marginable securities" means -

(a) securities listed for quotation or quoted on the Singapore Exchange Securities Trading Limited;

(b) in the case of an initial public offer, securities to be listed for quotation or quoted on the Singapore Exchange Securities Trading Limited, for which the holder of a capital markets services licence has received full payment from the borrower;

(c) securities quoted on the Central Limit Order Book (CLOB) International;

(d) securities quoted on a recognised group A exchange, and issued by a corporation with shareholders' funds of not less than \$200 million or its equivalent in a foreign currency; or

(e) such other securities as the Authority may approve and set out in a guideline issued by the Authority;

"market value" , in relation to securities listed for quotation or quoted on a securities exchange or overseas securities exchange, means -

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

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

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

"recognised group A exchange" has the same meaning as in regulation 2 of the Securities and Futures (Financial and Margin

Requirements for Holders of Capital Markets Services Licences)
Regulations 2002.

Advertisement

46. The holder of a capital markets services licence or a representative's licence shall not, directly or indirectly, publish, circulate or distribute any advertisement -

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

(i) state the name of each securities or futures contract recommended, the date and nature of the recommendation, the market price at that time, the price at which the recommendation was to be acted upon, and the market price of the securities or futures contract as of the most recent practicable date; and

(ii) contain a statement, in as large a font as the largest font used in the body of the advertisement, to the effect that the past performance of the securities or futures contracts in the list is not indicative of the future performance of the securities or futures contracts;

(b) which represents, directly or indirectly, that any graph, chart, formula or other device set out or referred to in the advertisement -

(i) can, in and of itself, be used to determine which securities or futures contracts to buy or sell, or when to buy or sell them; or

(ii) will assist any person in deciding which securities or futures contracts to buy or sell, or when to buy or sell them,

without prominently disclosing in the advertisement the limitations thereof and the difficulties with respect to its use;

(c) which contains any statement to the effect that any report, analysis or other service will be furnished free or without charge, unless such report, analysis or service is in fact or will in fact be furnished in its entirety and without any condition or obligation; or

(d) which contains any inaccurate or misleading statement or presentation, or any exaggerated statement or presentation that is calculated to exploit an individual's lack of experience and knowledge.

Trading standards

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

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

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

(b) is permitted under the rules of the relevant securities exchange, futures exchange, clearing house or recognised trading system provider, as the case may be; or

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

PART V

DEALING IN GOVERNMENT SECURITIES

Compliance with Rules and Market Practices

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

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

(b) a person exempted from holding a capital markets services licence under section 99 (1) (a), (b), (c) or (d) of the Act;

(c) a person exempted from holding a capital markets services licence to deal in securities under paragraph (2) (e) of the Second Schedule.

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

**PART VI
MISCELLANEOUS**

Exemption from sections 120 and 121 of Act for professional participants

49. (1) Section 120 (1) and (7) of the Act shall not apply to the holder of a capital markets services licence or a representative's licence when -

(a) sending a circular or other similar written communication in which a recommendation is made with respect to any securities to any of the persons referred to in paragraph (5); or

(b) sending a circular or other similar written communication in which a recommendation is made with respect to any Government securities to any person.

(2) Section 120 (6) of the Act shall not apply to a person when -

(a) making an offer of securities for subscription or purchase to any of the persons referred to in paragraph (5); or

(b) making an offer of Government securities for subscription or purchase to any person.

(3) Section 120 (5) and (6) of the Act shall not apply to a person when -

(a) making a recommendation with respect to any securities to any of the persons referred to in paragraph (5); or

(b) making a recommendation with respect to any Government securities to any person.

(4) Section 121 of the Act shall not apply to the holder of a capital markets services licence, or a representative of such a holder, when -

(a) making a recommendation with respect to any capital markets products to any of the persons referred to in paragraph (5); or

(b) making a recommendation with respect to any Government securities to any person.

(5) The persons referred to in paragraphs (1) (a), (2) (a), (3) (a) and (4) (a) are -

(a) a person whose business involves the acquisition and the disposal or holding of capital markets products (whether as principal or as agent); and

(b) an accredited investor.

(6) Section 120 (1) and (7) of the Act shall not apply to the holder of a capital markets services licence, or a representative of such a holder, when sending a circular or other similar written communication in which a recommendation is made with respect to securities that are not -

(a) securities listed for quotation or quoted on a securities exchange or recognised trading system provider; or

(b) units in a collective investment scheme.

(7) Section 121 of the Act shall not apply to the holder of a capital markets services licence, or a representative of such a holder, when making a recommendation with respect to capital markets products by way of a research report intended for general circulation, where the report is not made with regard to (and it is so stated in the report) the specific investment objective, financial situation or needs of any particular person who may receive the report.

Exemption for market-makers

50. (1) Section 120 (1) and (7) of the Act shall not apply to a market-maker when sending a circular or other similar written communication in which a recommendation is made with respect to any securities dealt with by it in such capacity.

(2) Section 125 of the Act shall not apply to a market-maker when dealing in securities in such capacity.

(3) In this regulation, a reference to a market-maker shall be read as a reference to -

(a) the holder of a capital markets services licence which deals in securities for its own account, regularly publishes *bona fide* competitive bid and offer quotations in respect of those securities, is ready, willing and able to enter into transactions at such quoted prices with other persons in respect of those securities, and is recognised as a market-maker by a securities exchange or the Authority; or

(b) a person referred to in paragraph 2 (i) of the Second Schedule.

Position limit

51. The Authority may issue a direction to a person, or its agent, who holds or controls net long or net short positions in any futures contract in excess of the position limit set under section 26 of the Act, to trade under conditions and restrictions specified in that direction in order to ensure compliance with the position limit; and may, in particular, require the person or agent to do one or more of the following:

(a) cease any further increase in his positions;

(b) liquidate his position in order to comply with the position limit within the time specified in the direction;

(c) be subject to higher margin requirements in respect of his positions.

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

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

(a) information about the business is not communicated to or directed at any person or persons in Singapore, whether electronically or otherwise;

(b) a prominent disclaimer comprising a statement referred to in paragraph (2) is contained in all advertisements and published information about the business;

(c) no advertisement or published information about the business contains any information which is specifically relevant to a person or persons in Singapore; and

(d) no advertisement or published information about the business is referred to in, or directly accessible from, any source which is intended for a person or persons in Singapore.

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

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

Exemption for SGXLink Pte Ltd

53. (1) Section 118 of the Act shall not apply in relation to the SGXLink Pte Ltd when dealing in securities in connection with the Foreign Market Linkage, subject to the conditions specified in writing by the Authority to that company.

(2) In this regulation, 'Foreign Market Linkage' means the cross border securities trading linkage established between the Australian Stock Exchange Limited and the Singapore Exchange Securities Trading Limited.

Banks, merchant banks and finance companies

54. (1) Sections 118, 122 and 125 to 129 of the Act, Part III of these Regulations and regulations 44 to 47 shall, with the necessary modifications, apply to each of the following exempt persons in respect of its business in any regulated activity as those provisions apply to the holder of a capital markets services licence and, where applicable, shall, with the necessary modifications, apply to a representative of any of these exempt persons when acting as such as those provisions apply to the holder of a representative's licence:

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

(2) Regulation 50 (2) shall, with the necessary modifications, apply in relation to the application of section 125 of the Act to any exempt person under paragraph (1).

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

Offences

55. Any person who contravenes regulation 4, 5, 11 or 14 (4) or any provision of Part III, IV or V, or a direction issued by the Authority under regulation 51, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000.

FIRST SCHEDULE

Regulation 3

LIST OF FORMS

<i>Provisions of the Act or these Regulations for which forms are prescribed</i>	<i>Description of Forms</i>	<i>Number of form in this Schedule</i>
Sections 84 (1) and 132 (1)	Application for a capital markets services licence under section 84 (1) and notice of particulars under section 132 (1)	1
Section 84 (1)	Application for renewal of a capital markets services licence under section 84 (1)	2
Section 84 (1) and (4)	Application for a representative's licence under section 84 (1) and (4)	3
Section 84 (1) and (4)	Application for renewal of a representative's licence under section 84 (1) and (4)	4
Section 90 (1)	Application for additional regulated activity under a capital markets services licence under section 90 (1)	5
Section 90 (1)	Application for additional regulated activity under a representative's licence under section 90 (1)	6
Sections 93 (1) and 132 (3) and	Notice of cessation of business under section 93 (1) and regulation 11 (1) or (2)/Notice of cessation as	7

regulation 11 (1) or (2)	a person to whom Division 1 of Part VII of Act applies under section 132 (3)	
Sections 93 (1) and 132 (3) and regulation 11 (3) or (4)	Notice of cessation to act as a representative in any or all regulated activities under section 93 (1) and regulation 11 (3) or (4)/Notice of cessation as a person to whom Division 1 of Part VII of Act applies under section 132 (3)	8
Sections 93 (1) and 131 and regulations 4 (b) and 10 (1)	Notice given under section 93 (1) and regulation 10 (1) for change of a representative's principal/Notice under regulation 4 (b) for change of place at which the register of interests in securities is kept under section 131	9
Sections 93 (1) and 131 and regulation 4 (a) and (b)	Notice given under section 93 (1) for change of principal place of business/Notice under regulation 4 (a) or (b) for change of place at which register of interests in securities is kept under section 131	10
Section 96 (1) and regulation 12	Appointment of chief executive officer or director under section 96 (1) and regulation 12	11
Regulation 14 (4)	Auditor's statement under regulation 14 (4) for a securities exchange, futures exchange or a recognised trading system provider exempted from licensing	12
Section 128 (1) and regulation 39 (2) (c)	Risk disclosure statement required to be furnished under section 128 (1) and to be kept under regulation 39 (2) (c) by the holder of a capital markets services licence to trade in futures contracts or leveraged foreign exchange contracts	13
Section 128 (2) and regulation 39 (2) (d)	Risk disclosure statement required to be furnished under section 128 (2) and to be kept under regulation 39 (2) (d) by the holder of a capital markets services licence for fund management relating to	14

	management of portfolio of futures contracts, and foreign exchange	
Section 131 (1)	Register of interests in securities under section 131 (1)	15
Regulation 5	Notification of change of representative's particulars under regulation 5	16
Regulation 7 (6)	Notice calling for claims against deposit lodged with the Authority under regulation 7 (6)	17
Paragraph 4 (6) (a) of the Second Schedule to the Regulations	Notice of commencement of business of person exempted from holding a capital markets services licence to carry on business in leveraged foreign exchange trading under paragraph 4 (6) (a) of the Second Schedule	18
Paragraph 4 (6) (b) of the Second Schedule to the Regulations	Notice of change of particulars of person exempted from holding a capital markets services licence to carry on business in leveraged foreign exchange trading under paragraph 4 (6) (b) of the Second Schedule	19
Paragraph 4 (6) (c) of the Second Schedule to the Regulations	Notice of cessation of business of person exempted from holding a capital markets services licence to carry on business in leveraged foreign exchange trading under paragraph 4 (6) (c) of the Second Schedule	20
Paragraph 4 (6) (d) of the Second Schedule to the Regulations	Declaration by person exempted from holding a capital markets services licence to carry on business in leveraged foreign exchange trading under paragraph 4 (6) (d) of the Second Schedule	21
Paragraphs 5 (7) (a) and 7 (6) (a) of the Second Schedule to the Regulations	Notice of commencement of business of person exempted from holding capital markets services licence to carry on business in fund management or advising on corporate finance under paragraph 5 (7) (a) or 7 (6) (a) of the Second Schedule	22

Paragraphs 5 (7) (b) and 7 (6) (b) of the Second Schedule to the Regulations	Notice of change of particulars of person exempted from holding capital markets services licence to carry on business in fund management or advising on corporate finance under paragraph 5 (7) (b) or 7 (6) (b) of the Second Schedule	23
Paragraphs 5 (7) (c) and 7 (6) (c) of the Second Schedule to the Regulations	Notice of cessation of business of person exempted from holding capital markets services licence to carry on business in fund management or advising on corporate finance under paragraph 5 (7) (c) or 7 (6) (c) of the Second Schedule	24
Paragraphs 5 (7) (d) and 7 (6) (d) of the Second Schedule to the Regulations	Declaration by person exempted from holding capital markets services licence to carry on business in fund management or advising on corporate finance under paragraph 5 (7) (d) or 7 (6) (d) of the Second Schedule	25

Form 1

Form 2

Form 3

Form 4

Form 5

Form 6

Form 7

Form 8

Form 9

Form 10

Form 11

Form 12

Form 13

Form 14

Form 15

Form 16

Form 17

Form 18

Form 19

Form 20

Form 21

Form 22

Form 23

Form 24

Form 25

SECOND SCHEDULE

Regulation 14

EXEMPTIONS FROM HOLDING CAPITAL MARKETS SERVICES LICENCE OR REPRESENTATIVE'S LICENCE

Definitions

1. In this Schedule -

'agent', in relation to a member of Lloyd's, 'Lloyd's', 'member of Lloyd's' and 'Service Company' have the same meanings as in regulation 2 of the Insurance (Lloyd's Asia Scheme) Regulations 2002 (G.N. No. S 62/2002);

"connected person" , in relation to any individual, means -

(a) his spouse, son, adopted son, step-son,
daughter, adopted daughter, step-daughter,

father, step-father, mother, step-mother, brother, step-brother, sister or step-sister; or

(b) a firm or corporation in which he or any of the persons referred to in paragraph (a) has control of not less than 50% of the voting power, whether such control is exercised individually or jointly;

"designated market-maker" means a corporation who -

(a) carries on business to deal in designated securities as a market-maker; and

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

"designated securities" means -

(a) exchange traded fund interests; or

(b) structured warrants,

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

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

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

(b) created and redeemed as part of a block of units in the collective investment scheme in exchange for the constituent assets in the portfolio;

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

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

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

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

"market-maker" means a corporation which -

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

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

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

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

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

"relevant offence" means -

(a) an offence, whether under the law of Singapore or elsewhere, in connection with the promotion, formation or management of a corporation, or involving fraud or dishonesty, or the conviction for which involved a finding that the offender had acted fraudulently or dishonestly;

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

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

(d) an offence under the Banking Act (Cap. 19), the Commodity Trading Act (Cap. 48A), the Finance Companies Act (Cap. 108), the Insurance Act (Cap. 142), the Monetary Authority of Singapore Act (Cap. 186), the

Money-changing and Remittance Businesses Act (Cap. 187), the Penal Code (Cap. 224), the Financial Advisers Act 2001 (Act 43 of 2001), or any subsidiary legislation made under any of these Acts;

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

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

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

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

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

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

Dealing in Securities

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

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

(a) a person when carrying on business in dealing in securities for his own account and with or through -

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

(ii) a bank licensed under the Banking Act;

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

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

but only in relation to securities that are not quoted on a securities exchange;

(v) a corporation or firm licensed or registered to carry on business in dealing in securities under the laws of a jurisdiction outside Singapore, but only in relation to securities that are not quoted on a securities exchange; or

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

(b) a person whose dealing in securities is solely incidental to his carrying on business in -

(i) fund management;

(ii) providing custodial services for securities; or

(iii) securities financing;

(c) an investment company when dealing in securities solely in connection with its acting as an underwriter or sub-underwriter of the issue of those securities for its own account;

(d) the Central Depository (Pte) Ltd in respect of its dealing in securities -

(i) that is solely incidental to its business of providing depository services for securities; or

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

(e) a person when carrying on business in dealing in bonds with -

(i) an accredited investor; or

(ii) a person whose business involves the acquisition and disposal of or holding of securities (whether as principal or agent);

(f) a corporation when subscribing for securities on behalf of a customer as nominee, provided that such corporation -

(i) has no interest in the securities subscribed for other than as a bare trustee; and

(ii) is a wholly-owned subsidiary of -

- (A) the holder of a capital markets services licence to deal in securities;
- (B) a bank licensed under the Banking Act (Cap. 19);
- (C) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186);
- (D) a finance company licensed under the Finance Companies Act (Cap. 108);
- (E) a securities exchange;
- (F) an exchange holding company; or
- (G) a clearing house;
- (g) a person approved by the Authority when, pursuant to the establishment and promotion of an aircraft leasing business in Singapore, he deals in the shares of a special purpose corporation with -
 - (i) a bank licensed under the Banking Act (Cap. 19), a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186), or such other financial institution as may be approved by the Authority; or
 - (ii) a corporation with total net assets exceeding \$10 million in value or its equivalent in value in a foreign currency as determined in accordance with the most recent audited balance-sheet of the corporation or, in the case of a corporation which is not required to prepare audited accounts, a balance-sheet certified by the corporation as giving a true and fair view of the state of affairs of the corporation as at the end of the period to which it relates,
- (referred to in this sub-paragraph as a designated institution) if, and only if, such dealing in shares is subject to a prohibition that the designated institution may not subsequently dispose of the shares of the special purpose corporation except to another designated institution;
- (h) a trustee of a qualified arrangement in respect of securities whose dealing in securities is solely incidental to the management and administration of such arrangement;
- (i) a designated market-maker when carrying on business in dealing in designated securities for its own account or for the account of any of its related corporations;
- (j) a financial adviser licensed under the Financial Advisers Act 2001 (Act 43 of 2001), or a person exempted under section 23 or 100 of that Act in

respect of the marketing of any collective investment scheme, when marketing, or redeeming units of, any collective investment scheme.

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

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

(a) a person when carrying on business in trading in futures contracts for his own account or for the account of a related corporation or connected person;

(b) a person whose trading in futures contracts is solely incidental to his carrying on business in fund management;

(c) an order-filler, provided that he shall not be or shall cease to be exempted if -

(i) he is or becomes a representative or employee of the holder of a capital markets services licence to trade in futures contracts;

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

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

Leveraged Foreign Exchange Trading
Exemption from requirement to hold capital markets services licence to carry out leveraged foreign exchange trading

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

(a) a person who carries on business in leveraged foreign exchange trading -

(i) for his own account and with a related corporation or connected person; or

(ii) for his own account or for the account of a related corporation or connected person, and with or through -

(A) the holder of a capital markets services licence to carry on business in leveraged foreign exchange trading;

(B) a bank licensed under the Banking Act (Cap. 19);

(C) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186);

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

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

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

(c) a person who carries on business in leveraged foreign exchange trading with accredited investors.

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

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

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

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

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

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

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

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

(c) a receiver, a receiver and manager, a judicial manager or such other person having the powers and duties of a receiver, receiver and manager or judicial manager, has been appointed whether in Singapore or elsewhere in relation to, or in respect of, any property of the corporation or its substantial shareholder;

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

(e) the corporation or its substantial shareholder has been convicted of a relevant offence.

(5) A person who is exempted under sub-paragraph (1) (c) shall -

(a) take reasonable measures to verify that the persons with whom he carries on business in leveraged foreign exchange trading are accredited investors; and

(b) ensure that proper records are kept of any document evidencing the status of such persons.

(6) A person who is exempted under sub-paragraph (1) (c) shall lodge with the Authority -

(a) a notice of commencement of business in Form 18 not later than 14 days after the commencement of his business in leveraged foreign exchange trading;

(b) a notice of change of particulars in Form 19 providing any change in the particulars in the notice under sub-paragraph (a), not later than 14 days after the date of the change;

(c) a notice of cessation of business in Form 20 not later than 14 days after the cessation of his business in leveraged foreign exchange trading; and

(d) a declaration in Form 21 within 14 days after the end of the financial year of the person.

(7) Every person exempted under sub-paragraph (1) (c) shall furnish to the Authority, at such time and in such manner as the Authority may direct, all such information concerning his business as the Authority may reasonably require.

(8) A person exempted under sub-paragraph (1) (c) who has, at any time before 1st October 2002, lodged a notice of commencement of

business in the prescribed form under the repealed Futures Trading Act (Cap. 116) in relation to his carrying on business in leveraged foreign exchange trading with accredited investors, shall be deemed to have lodged a notice of commencement of business in compliance with sub-paragraph (6) (a).

Fund Management

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

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

(a) a headquarters company or Finance and Treasury Centre which carries on a class of business involving fund management but only to the extent that the business in fund management has been approved as a qualifying service in relation to that headquarters company or Finance and Treasury Centre under section 43E (2) (a) or 43G (2) (a) of the Income Tax Act (Cap. 134), as the case may be;

(b) a corporation which carries on business in fund management for or on behalf of any of its related corporations, so long as in carrying on such business, none of the securities, positions in futures contracts, or foreign exchange arising from foreign exchange trading or leveraged foreign exchange trading being managed, are -

(i) held on trust for another person by the second-mentioned corporation;

(ii) the result of any investment contract entered into by the second-mentioned corporation; or

(iii) beneficially owned by any person, other than the first-mentioned or second-mentioned corporation;

(c) an individual who carries on business in fund management for or on behalf of any of his connected persons (referred to in this sub-paragraph as the connected person), so long as in carrying on such business, none of the securities, positions in futures contracts, or foreign exchange arising from foreign exchange trading or leveraged foreign exchange trading being managed, are -

(i) held on trust for another person by the connected person;

(ii) the result of any investment contract entered into by the connected person; or

(iii) beneficially owned by any person, other than the individual or connected person;

(d) a person resident in Singapore who undertakes fund management on behalf of not more than 30 qualified investors;

(e) the holder of a capital markets services licence to trade in futures contracts which carries on business in fund management in accordance with regulation 20; or

(f) a Service Company whose business in fund management is solely incidental to its carrying on business as an agent of a member of Lloyd's.

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

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

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

(c) a person who is otherwise exempted under sub-paragraph (1) (d) and is also exempted under regulation 26 (1) (d) of the Financial Advisers Regulations 2002 (G.N. No. S 462/2002) from the requirement to hold a financial adviser's licence under the Financial Advisers Act 2001 (Act 43 of 2001) in respect of providing any financial advisory service, other than -

(i) marketing collective investment schemes; and

(ii) arranging contracts of insurance in respect of life policies,

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

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

(a) an accredited investor other than one who is a participant in a collective investment scheme referred to in sub-paragraph (b) or (c);

(b) a collective investment scheme the units of which are the subject of an offer or invitation made in Singapore only to accredited investors for subscription or purchase;

(c) any other collective investment scheme the units of which are not the subject of an offer or invitation made in Singapore to the public for subscription or purchase;

(d) any other persons that the Authority may from time to time, by a guideline issued by the Authority, determine.

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

(a) he is or becomes a representative or employee of the holder of a capital markets services licence for fund management;

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

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

(5) A corporation otherwise exempted under sub-paragraph (1) (a), (b), (c) or (d) shall not be or shall cease to be so exempted if -

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

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

(c) a receiver, a receiver and manager, a judicial manager or such other person having the powers and duties of a receiver, receiver and manager or judicial manager, has been appointed whether in Singapore or elsewhere in relation to, or in respect of, any property of the corporation or its substantial shareholder;

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

(e) the corporation or its substantial shareholder has been convicted of a relevant offence.

(6) A person who is exempted under sub-paragraph (1) (d) shall -

(a) take reasonable measures to verify that the persons on behalf of whom he carries on business in fund management are qualified investors; and

(b) ensure that proper records are kept of any document evidencing the status of such persons.

(7) A person who is exempted under sub-paragraph (1) (d) shall lodge with the Authority -

(a) a notice of commencement of business in Form 22 not later than 14 days after the commencement of his business in fund management;

(b) a notice of change of particulars in Form 23 providing any change in the particulars in the notice under sub-paragraph (a), not later than 14 days after the date of the change;

(c) a notice of cessation of business in Form 24 not later than 14 days after the cessation of his business in fund management; and

(d) a declaration in Form 25 within 14 days after the end of the financial year of the person.

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

(9) A person exempted under sub-paragraph (1) (d) who has, at any time before 1st October 2002, lodged a notice of commencement of business in the prescribed form -

(a) under regulation 22A (5) (a) of the revoked Futures Trading Regulations (Cap. 116, Rg 1) in relation to the activity specified in paragraph (c) of the definition of 'futures trading adviser' in section 2 (1) of the repealed Futures Trading Act (Cap. 116); or

(b) under regulation 41 (5) (a) of the revoked Securities Industry Regulations (Cap. 289, Rg 1) in relation to the activity specified in paragraph (c) of the definition of 'investment adviser' in section 2 (1) of the repealed Securities Industry Act (Cap. 289),

shall be deemed to have lodged a notice of commencement of business in compliance with sub-paragraph (7) (a).

Custodial Services for Securities

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

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

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

(b) a company or society registered under the Insurance Act (Cap. 142) when carrying on business in providing custodial services only in respect of units of any collective investment scheme;

(c) a Service Company acting as an agent in Singapore for any member of Lloyd's, when carrying on business in providing custodial services only in respect of units of any collective investment scheme.

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

Advising on Corporate Finance

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

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

(a) a person who carries on business in giving advice on corporate finance to a related corporation, provided that -

(i) such advice is not specifically given for the making of any offer of securities to the public by the related corporation; and

(ii) where the related corporation is -

(A) a public company;

(B) listed on a securities exchange; or

(C) a subsidiary of a corporation listed on a securities exchange,

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

(b) a person who carries on business in giving advice on corporate finance to accredited investors, provided that -

(i) such advice is not specifically given for the making of any offer of securities to the public by the accredited investor to whom the advice was given; and

(ii) where the accredited investor is -

(A) a public company;

(B) listed on a securities exchange; or

(C) a subsidiary of a corporation listed on a securities exchange,

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

(c) a person who advises another person concerning any arrangement, reconstruction or take-over of any corporation or any of the corporation's assets or liabilities, provided that -

(i) such advice is not specifically given for the making of any offer of securities to the public by the second-mentioned person; and

(ii) where the second-mentioned person is -

(A) a public company;

(B) listed on a securities exchange; or

(C) a subsidiary of a corporation listed on a securities exchange,

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

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

(2) A person otherwise exempted under sub-paragraph (1) (a), (b) or (c) shall not be or shall cease to be so exempted if he also carries on business in advising on corporate finance other than in accordance with sub-paragraph (1) (a), (b), (c) or (d).

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

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

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

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

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

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

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

(c) a receiver, a receiver and manager, a judicial manager or such other person having the powers and duties of a receiver, receiver and manager or judicial manager, has been appointed whether in Singapore or elsewhere in relation to, or in respect of, any property of the corporation or its substantial shareholder;

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

(e) the corporation or its substantial shareholder has been convicted of a relevant offence.

(5) A person who is exempted under sub-paragraph (1) (b) shall -

(a) take reasonable measures to verify that the persons to whom he carries on business in advising on corporate finance are accredited investors; and

(b) ensure that proper records are kept of any document evidencing the status of such persons.

(6) A person who is exempted under sub-paragraph (1) (b) shall lodge with the Authority -

(a) a notice of commencement of business in Form 22 not later than 14 days after the commencement of his business in advising on corporate finance;

(b) a notice of change of particulars in Form 23 providing any change in the particulars in the notice under sub-paragraph (a), not later than 14 days after the date of the change;

(c) a notice of cessation of business in Form 24 not later than 14 days after the cessation of his business in advising on corporate finance; and

(d) a declaration in Form 25 within 14 days after the end of the financial year of the person.

(7) Every person exempted under sub-paragraph (1) (b) shall furnish to the Authority, at such time and in such manner as the Authority may direct, all such information concerning his business in advising on corporate finance as the Authority may reasonably require.

(8) A person exempted under sub-paragraph (1) (b) who has, at any time before 1st October 2002, lodged a notice of commencement of business in the prescribed form under regulation 41 (5) (a) of the revoked Securities Industry Regulations (Cap. 289, Rg 1) in relation to the activity specified in paragraph (a) of the definition of 'investment adviser' in section 2 (1) of the repealed Securities Industry Act (Cap. 289) shall be deemed to have lodged a notice of commencement of business in compliance with sub-paragraph (6) (a).

Other Exemptions

Exemption from requirement to hold representative's licence

8. (1) An employee of -

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

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

who is registered as an associated person of a futures exchange under the rules of that futures exchange, shall be exempted from the requirement to hold a representative's licence to carry on business in trading in futures contracts when trading in futures contracts for a related corporation of the

bank or merchant bank, provided that the related corporation is the holder of a capital markets services licence to trade in futures contracts.

(2) A person shall, when acting as a representative of the holder of a capital markets services licence for securities financing or providing custodial services for securities, be exempted from the requirement to hold a representative's licence to carry on business in securities financing or providing custodial services for securities, as the case may be.

Exemption for exchange holding company

9. An exchange holding company shall be exempted from the requirement to hold a capital markets services licence in respect of any regulated activity insofar as its carrying out of such regulated activity is solely incidental to its operation as an exchange holding company.