

**DRAFT AMENDMENTS TO THE
FINANCIAL ADVISERS ACT (FAA)**

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It is also subject to review by the Attorney-General's Chambers.

FINANCIAL ADVISERS ACT

(CHAPTER 110)

(Act 43 of 2001)

An Act to regulate financial advisers and their representatives, and for other purposes relating thereto or connected therewith.

PART I

PRELIMINARY

Short title

1. This Act may be cited as the Financial Advisers Act.

Interpretation

- 2.—(1) In this Act, unless the context otherwise requires —

“advocate and solicitor” means an advocate and solicitor of the Supreme Court or a foreign lawyer as defined in section 2(1) of the Legal Profession Act (Cap. 161);

“appointed representative”, in respect of a type of financial advisory service, has the meaning given to that expression in section 23C, and “appointed representative” means an appointed representative in respect of any type of financial advisory service;

“approved exchange” has the same meaning as in section 2(1) of the Securities and Futures Act (Cap. 289);

“approved holding company” has the same meaning as in section 2(1) of the Securities and Futures Act;

“auditor” means a public accountant who is registered or deemed to be registered under the Accountants Act (Cap. 2);

“Authority” means the Monetary Authority of Singapore established under the Monetary Authority of Singapore Act (Cap. 186);

“book” includes any record, register, document or other record of information and any account or accounting record, however compiled, recorded or stored, whether in written or printed form or on microfilm or by electronic process or otherwise;

“capital markets products” has the same meaning as in section 2(1) of the Securities and Futures Act;

“collective investment scheme has the same meaning as in section 2(1) of the Securities and Futures Act;

“commodity” has the same meaning as in section 2(1) of the Securities and Futures Act;

“company” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

“connected person”, in relation to —

(a) an individual, means —

(i) the individual’s spouse, son, adopted son, step-son, daughter, adopted daughter, step-daughter, father, step-father, mother, step-mother, brother, step-brother, sister or step-sister; and

(ii) a firm, a limited liability partnership or a corporation in which the individual or any of the persons mentioned in sub-paragraph (i) has control of not less than 20% of the voting power in the firm, limited liability partnership or corporation, whether such control is exercised individually or jointly; or

(b) a firm, a limited liability partnership or a corporation, means another firm, limited liability partnership or corporation in which the first-mentioned firm, limited liability partnership or corporation has control of not less than 20% of the voting power in that other firm, limited liability partnership or corporation,

and a reference in this Act to a person connected to another person shall be construed accordingly;

“corporation” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

“dealing in capital markets products securities” has the same meaning as in section 2(1) of the Securities and Futures Act;

“derivative contract” has the same meaning as in section 2(1) of the Securities and Futures Act;

“exempt financial adviser” means a financial adviser who is exempt under section 23(1) from holding a financial adviser’s licence;

“financial adviser” means a person who carries on a business of providing any financial advisory service, but does not include any person specified in the First Schedule;

“financial adviser’s licence” means a licence granted under section 13 in respect of a financial adviser, and “licensed financial adviser” shall be construed accordingly;

“financial advisory service” means all or any of the services specified in the Second Schedule;

“financial journalist” means a person who contributes advice concerning securities, securities-based derivative contracts, or units in a collective investment scheme, or prepares analyses or reports concerning securities, securities-based derivative contracts, or units in a collective investment scheme for publication in a newspaper, but does not include such person or a person belonging to such class of persons as may be prescribed;

“financial year” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

“firm” has the same meaning as in section 2(1) of the Business Registration Act (Cap. 32);

“futures contracts” has the same meaning as in section 2(1) of the Securities and Futures Act; means

~~(b) a contract the effect of which is that—~~

~~(i) one party agrees to deliver a specified commodity, or a specified quantity of a specified commodity, to another party at a specified future time and at a specified price payable at that time pursuant to the terms and conditions set out in the business rules or practices of a futures market; or~~

~~(ii) the parties will discharge their obligations under the contract by settling the difference between the value of a specified quantity of a specified commodity agreed at the time of the making of the contract and at a specified future time, such difference being determined in accordance with the business rules or practices of a futures market at which the contract is made,~~

~~and includes a futures option transaction within the meaning of section 2(1) of the Securities and Futures Act (Cap. 289); or~~

~~(c) such other contract or class of contracts as the Authority may prescribe,~~

~~but does not include such contract or class of contracts as the Authority may prescribe;~~

~~“futures exchange” has the same meaning as in section 2(1) of the Securities and Futures Act;~~

~~“futures market” has the meaning given to it in Part I of the First Schedule;~~

~~“futures option transaction” means an option on a specified futures contract which is transacted in accordance with the business rules or practices of a futures exchange, recognised market operator or futures market on which the transaction is made;~~

“investment product” means —

(a) any capital markets product as defined in section 2(1) of the Securities and Futures Act;

(aa) spot foreign exchange contracts other than for the purposes of leveraged foreign exchange trading;

(b) any life policy; or

(c) any other product as may be prescribed;

“leveraged foreign exchange trading” has the meaning as in section 2(1) of the Securities and Futures Act;

“licensed insurer” means an insurer who is for the time being licensed under section 8 of the Insurance Act (Cap. 142);

“life policy” has the same meaning as in the First Schedule to the Insurance Act (Cap. 142), but does not include any contract of reinsurance;

“limited liability partnership” has the same meaning as in section 2(1) of the Limited Liability Partnerships Act (Cap. 163A);

“manager” and “partner”, in relation to a limited liability partnership, have the respective meanings assigned to them in section 2(1) of the Limited Liability Partnerships Act;

“newspaper” has the same meaning as in section 2 of the Newspaper and Printing Presses Act (Cap. 206);

“officer” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

“organised market” has the same meaning as in section 2(1) of the Securities and Futures Act;

“prescribed written law” means this Act or any of the following written laws:

(a) Banking Act (Cap. 19);

(b) Finance Companies Act (Cap. 108);

(c) Insurance Act (Cap. 142);

(d) Monetary Authority of Singapore Act (Cap. 186);

(e) Money-changing and Remittance Businesses Act (Cap. 187);

(f) Securities and Futures Act (Cap. 289); or

(g) such other written law as the Authority may by order prescribe;

“principal”, in relation to a representative, means a person whom the representative is in the direct employment of, is acting for or is acting by arrangement with, and on behalf of whom the representative carries or will carry out any regulated activity;

“provisional representative”, in respect of a type of financial advisory service, has the meaning given to that expression in section 23D, and “provisional

representative” means a provisional representative in respect of any type of financial advisory service;

“public register of representatives” means the register of that name under section 63A(3);

“recognised market operator” has the same meaning as in section 2(1) of the Securities and Futures Act;

“record” means information that is inscribed, stored or otherwise fixed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

“related corporation” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

“representative” means a person, by whatever name called, in the direct employment of, or acting for, or by arrangement with, a financial adviser, who performs on behalf of the financial adviser any financial advisory service, whether or not he is remunerated, and whether his remuneration, if any, is by way of salary, wages, commission or otherwise, and includes any officer of the financial adviser who performs for the financial adviser any financial advisory service whether or not he is remunerated, and whether his remuneration, if any, is by way of salary, wages, commission or otherwise;

“securities” has the same meaning as in section 2(1) of the Securities and Futures Act;

~~“securities exchange” has the same meaning as in section 2(1) of the Securities and Futures Act;~~

“securities-based derivative contract” has the same meaning as in section 2(1) of the Securities and Futures Act;

“share” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

“spot foreign exchange contract” has the same meaning as in section 2(1) of the Securities and Futures Act;

“substantial shareholder” has the same meaning as in section 2(6) of the Securities and Futures Act;

~~“trading in futures contracts” has the same meaning as in section 2(1) of the Securities and Futures Act;~~

“voting share” has the same meaning as in section 4(1) of the Companies Act;

“written direction” means a written direction issued under section 58.

(2) The definitions in the First Schedule to the Insurance Act (Cap. 142) shall have effect for the construction of references to life policies in this Act.

Associated person

3.—(1) Unless the context otherwise requires, any reference in this Act to a person associated with another person shall be construed as a reference to —

- (a) where the other person is a corporation —
 - (i) a director or secretary of the corporation;
 - (ii) a related corporation; or
 - (iii) a director or secretary of such a related corporation;
- (b) where the matter to which the reference relates is the extent of a power to exercise, or to control the exercise of, the voting power attached to voting shares in a corporation, a person with whom the other person has entered into, or proposes to enter into, an agreement, arrangement, understanding or undertaking, whether formal or informal, or express or implied —
 - (i) by reason of which either of those persons may exercise, directly or indirectly, control the exercise of, or substantially influence the exercise of, any voting power attached to a share in the corporation;
 - (ii) with a view to controlling or influencing the composition of the board of directors, or the conduct of affairs, of the corporation; or
 - (iii) under which either of those persons may acquire from the other of them shares in the corporation or may be required to dispose of such shares in accordance with the directions of the other of them,except that, in relation to a matter relating to shares in a corporation, a person may be an associate of the corporation and the corporation may be an associate of a person;
- (c) a person with whom the other person is acting, or proposes to act, in concert in relation to the matter to which the reference relates;
- (d) where the matter to which the reference relates is a matter, other than the extent of a power to exercise, or to control the exercise of, the voting power attached to voting shares in a corporation —
 - (i) subject to subsection (2), a person who is a director of a corporation of which the other person is a director; or
 - (ii) a trustee of a trust in relation to which the other person benefits or is capable of benefiting otherwise than by reason of transactions entered into in the ordinary course of business in connection with the lending of money;
- (e) a person with whom the other person is, according to any subsidiary legislation made under this Act, to be regarded as associated in respect of the matter to which the reference relates;
- (f) a person with whom the other person is, or proposes to become, associated, whether formally or informally, in any other way in respect of the matter to which the reference relates; or
- (g) where the other person has entered into, or proposes to enter into, a transaction, or has done, or proposes to do, any other act or thing, with a view to becoming associated with a person as referred to in paragraph (a), (b), (c), (d), (e) or (f), that last-mentioned person.

(2) Where, in proceedings under this Act, it is alleged that a person referred to in subsection (1)(d)(i) was associated with another person at a particular time, that the first-mentioned person shall not be considered to be so associated in relation to a matter to which the proceedings relate unless the person alleging the association proves that the first-mentioned person at that time knew or ought reasonably to have known the material particulars of that matter.

(3) A person shall not be taken to be associated with another person by virtue of subsection (1)(b), (c), (e) or (f) by reason only of one or more of the following:

- (a) that one of those persons furnishes advice to, or acts on behalf of, the other person in the proper performance of the functions attaching to his professional capacity or to his business relationship with the other person;
- (b) that one of those persons, a customer, gives specific instructions to the other, whose ordinary business includes dealing in capital markets products securities, trading in futures contracts or leveraged foreign exchange trading, to acquire shares on the customer's behalf in the ordinary course of that business;
- (c) that one of those persons has sent, or proposes to send, to the other, a take-over offer, or has made, or proposes to make, offers under a take-over announcement, within the meaning of the Take-over Code issued under section 321(1) of the Securities and Futures Act (Cap.289), in relation to shares held by the other;
- (d) that one of those persons has appointed the other, otherwise than for valuable consideration given by the other or by an associate of the other, to vote as a proxy or representative at a meeting of members, or of a class of members, of a corporation.

Interest in securities, securities-based derivative contracts and units in a collective investment scheme

4.—(1) Subject to this section, a person has an interest in securities, securities-based derivative contracts, or units in a collective investment scheme if he has authority (whether formal or informal, or express or implied) to dispose of, or to exercise control over the disposal of, those securities, securities-based derivative contracts, or units in a collective investment scheme.

(2) For the purposes of subsection (1), it is immaterial that the authority of a person to dispose of, or to exercise control over the disposal of, particular securities, securities-based derivative contracts, or units in a collective investment scheme is, or is capable of being made, subject to restraint or restriction.

(3) Where any property held in trust consists of or includes securities, securities-based derivative contracts, or units in a collective investment scheme, and a person knows, or has reasonable grounds for believing, that he has an interest under the trust, he shall be deemed to have an interest in those securities, securities-based derivative contracts, or units in a collective investment scheme.

(4) Where a corporation has, or is by the provisions of this section deemed to have, an interest in a security, securities-based derivative contract, or unit in a collective investment scheme and —

(a) the corporation is, or its directors are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of a person; or

(b) a person has a controlling interest in the corporation,

that person shall be deemed to have an interest in that security, securities-based derivative contract, or unit in a collective investment scheme.

(5) Where a corporation has, or is by the provisions of this section (apart from this subsection) deemed to have, an interest in a security, securities-based derivative contract, or unit in a collective investment scheme and —

(a) a person is;

(b) the associates of a person are; or

(c) a person and his associates are,

entitled to exercise or control the exercise of not less than 20% of the votes attached to the voting shares in the corporation, that person shall be deemed to have an interest in that security, securities-based derivative contract, or unit in a collective investment scheme.

(6) For the purposes of subsection (5), a person is an associate of another person if the first-mentioned person is —

(a) a related corporation of the second-mentioned person;

(b) a person in accordance with whose directions, instructions or wishes the second-mentioned person is accustomed or is under an obligation, whether formal or informal, to act in relation to the security, securities-based derivative contract, or unit in a collective investment scheme referred to in subsection 4;

(c) a person who is accustomed or is under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the second-mentioned person in relation to that security, securities-based derivative contract, or unit in a collective investment scheme;

(d) a corporation which is, or the directors of which are, accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the second-mentioned person in relation to that security, securities-based derivative contract, or unit in a collective investment scheme; or

(e) a corporation in accordance with the directions, instructions or wishes of which, or of the directors of which, the second-mentioned person is accustomed or under an obligation, whether formal or informal, to act in relation to that security, securities-based derivative contract, or unit in a collective investment scheme.

(7) A person shall be deemed to have an interest in a security, securities-based derivative contract, or unit in a collective investment scheme in any one or more of the following circumstances:

- (a) where he has entered into a contract to purchase a security, securities-based derivative contract, or unit in a collective investment scheme;
- (b) where he has a right, otherwise than by reason of having an interest under a trust, to have a security, securities-based derivative contract, or unit in a collective investment scheme transferred to himself or to his order, whether the right is exercisable presently or in the future and whether on the fulfilment of a condition or not;
- (c) where he has the right to acquire a security, securities-based derivative contract, or unit in a collective investment scheme or an interest in a security, securities-based derivative contract, or unit in a collective investment scheme, under an option, whether the right is exercisable presently or in the future and whether on the fulfilment of a condition or not; or
- (d) where he is entitled, otherwise than by reason of his having been appointed a proxy or representative to vote at a meeting of members of a corporation or of a class of its members, to exercise or control the exercise of a right attached to a security, securities-based derivative contract, or unit in a collective investment scheme, not being a security or unit in a collective investment scheme of which he is the registered holder, or a securities-based derivative contract of which he is a party to.

(8) A person shall be deemed to have an interest in a security, securities-based derivative contract, or unit in a collective investment scheme if that security, securities-based derivative contract, or unit in a collective investment scheme is held jointly with another person.

(9) For the purpose of determining whether a person has an interest in a security, securities-based derivative contract, or unit in a collective investment scheme, it is immaterial that the interest cannot be related to a particular security, securities-based derivative contract, or unit in a collective investment scheme.

(10) There shall be disregarded —

- (a) an interest in a security, securities-based derivative contract, or unit in a collective investment scheme if the interest is that of a person who holds the security, securities-based derivative contract, or unit in a collective investment scheme as bare trustee;
- (b) an interest in a security, securities-based derivative contract, or unit in a collective investment scheme if the interest is that of a person whose ordinary business includes the lending of money if he holds the interest only by way of security, securities-based derivative contract, or unit in a collective investment scheme for the purposes of a transaction entered into in the ordinary course of business in connection with the lending of money;

- (c) an interest of a person in a security, securities-based derivative contract, or unit in a collective investment scheme if that interest is an interest held by him by reason of his holding a prescribed office;
 - (d) an interest of a company in its own securities if that interest is purchased or otherwise acquired in accordance with sections 76B to 76G of the Companies Act (Cap. 50); and
 - (e) a prescribed interest in a security, securities-based derivative contract, or unit in a collective investment scheme being an interest of such person, or of the persons included in such class of persons, as may be prescribed.
- (11) An interest in a security, securities-based derivative contract, or unit in a collective investment scheme shall not be disregarded by reason only of —
- (a) its remoteness;
 - (b) the manner in which it arose; or
 - (c) the fact that the exercise of a right conferred by the interest is or is capable of being made subject to restraint or restriction.

Amendment of Schedules

5.—(1) The Minister may from time to time, by order published in the Gazette, amend, add to or vary the First, Second or Third Schedule.

(2) The Minister may, in any order made under subsection (1), make such incidental, consequential or supplementary provisions as may be necessary or expedient.

(3) Any order made under subsection (1) shall be presented to Parliament as soon as possible after publication in the Gazette.

[...]

PART II

FINANCIAL ADVISERS AND REPRESENTATIVES

Division 1 — Financial Advisers

[...]

Exempt financial advisers and their representatives

23.—(1) Subject to subsection (10), the following persons shall be exempt from holding a financial adviser's licence to act as a financial adviser in Singapore in respect of any financial advisory service:

- (a) a bank licensed under the Banking Act (Cap. 19);
- (b) a merchant bank approved as a financial institution and approved to carry on a business of providing any financial advisory service under the Monetary Authority of Singapore Act (Cap. 186);

- (c) a company or co-operative society licensed under the Insurance Act (Cap. 142);
- (d) a holder of a capital markets services licence under the Securities and Futures Act (Cap. 289);
- (e) a finance company which has been granted an exemption from section 25(2) of the Finance Companies Act (Cap. 108) to carry on a business of providing any financial advisory service;
- (ea) ~~an securities exchange, a futures~~ approved exchange, a recognised market operator, or an approved holding company, in respect of the provision of any financial advisory service that is solely incidental to its operation of ~~a securities market, a futures market~~ an organised market, or to its performance as an approved holding company, as the case may be; and
- (f) such other persons or classes of persons as may be prescribed.

(2) [Deleted by Act 2 of 2005]

(3) [Deleted by Act 2 of 2005]

(4) Subject to the provisions of this Act, sections 25 to 29, 32, 33, 34 and 36 shall apply, with the necessary modifications, to an exempt financial adviser (other than a person referred to in subsection (1)(ea) or (f)) in respect of its business of providing any financial advisory service as if it is a licensed financial adviser.

(5A) Subject to the provisions of this Act, sections 25, 26 and 36 shall apply, with the necessary modifications, to —

- (a) a person referred to in subsection (1)(ea) in respect of its business of providing any financial advisory service as if it is a licensed financial adviser; and
- (b) any of its representatives in respect of his acting as such as if he is a licensed financial adviser.

(5B) [Deleted by Act 1/2009 wef 26/11/2010]

(5C) The reference in subsections (4) and (5A) to specific sections of this Act do not include references to any regulations made under those sections unless the Authority prescribes that such regulations so apply.

(6) The Authority may, on the application of an exempt financial adviser (other than a person referred to in subsection (1)(f)), exempt the exempt financial adviser from complying with any of the provisions referred to in subsection (4) or (5A), as the case may be.

(6A) The Authority may, on the application of a person referred to in subsection (1)(ea), exempt any of its representatives from complying with any of the provisions referred to in subsection (5A).

(7) The Authority may prescribe or specify in written directions the provisions of this Act that apply to the persons referred to in subsection (1)(f) or their representatives.

(8) An exemption granted under subsection (6) need not be published in the Gazette.

(9) The Authority may prescribe or specify in written directions such conditions or restrictions as may be imposed on an exempt financial adviser or a representative of a person referred to in subsection (1)(ea) or (f) in relation to the provision of any financial advisory service as the Authority thinks fit.

(10) The Authority may withdraw an exemption granted to any person under this section if —

- (a) he fails to pay the annual fee under section 23A;
- (b) he contravenes any other provision of this Act; or
- (c) the Authority considers it necessary in the public interest.

(11) Where the Authority withdraws an exemption granted to any person under this section, the Authority need not give the person an opportunity to be heard.

(12) An exempt financial adviser which is aggrieved by the decision of the Authority to withdraw an exemption granted to it under this section may, within 30 days of the decision, appeal in writing to the Minister.

(13) A withdrawal under subsection (10) of an exemption granted to any person shall not operate so as to —

- (a) avoid or affect any agreement, transaction or arrangement, relating to any investment product entered into by the person, whether the agreement, transaction or arrangement was entered into before or after the withdrawal of the exemption; or
- (b) affect any right, obligation or liability arising under any agreement, transaction or arrangement referred to in paragraph (a).

(14) Any exempt financial adviser which contravenes any condition or restriction imposed under subsection (9) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

(15) Any representative who contravenes any condition or restriction imposed under subsection (9) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for every day or part thereof during which the offence continues after conviction.

[...]

Division 2 — Representatives

Acting as representative

23B.—(1) No person shall act as a representative in respect of any type of financial advisory service or hold himself out as doing so, unless he is —

(a) an appointed or provisional representative in respect of that type of financial advisory service concerning that type of investment product; or

(b) a representative of an exempt financial adviser referred to in section 23(1)(ea) or (f), in so far as —

(i) the type and scope of the financial advisory service concerning that type of investment product provided by the first-mentioned person are within the type and scope of, or are the same as, that provided by the exempt financial adviser (in his capacity as such exempt financial adviser); and

(ii) the manner in which the first-mentioned person provides that type of financial advisory service concerning that type of investment product is the same as the manner in which the exempt financial adviser (in his capacity as such exempt financial adviser) provides that type of financial advisory service concerning that type of investment product.

(2) The Authority may exempt any person or class of persons from subsection (1), subject to such conditions or restrictions as may be imposed by the Authority.

(3) A principal shall not permit any individual to provide any type of financial advisory service concerning any type of investment product on its behalf unless —

(a) the individual is an appointed or provisional representative in respect of that type of financial advisory service concerning that type of investment product; or

(b) the principal is an exempt financial adviser under section 23(1)(ea) or (f) and —

(i) the type and scope of the financial advisory service concerning that type of investment product provided by the individual are within the type and scope of, or are the same as, that provided by the exempt financial adviser (in his capacity as an exempt financial adviser); and

(ii) the manner in which the individual provides that type of financial advisory service concerning that type of investment product is the same as the manner in which the exempt financial adviser (in his capacity as an exempt financial adviser) provides that type of financial advisory service concerning that type of investment product.

(4) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for every day or part thereof during which the offence continues after conviction.

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

Appointed representative

23C.—(1) For the purposes of this Act, an appointed representative in respect of a type of financial advisory service concerning a type of investment product is an individual —

- (a) who satisfies such entry and examination requirements as may be specified by the Authority for that type of financial advisory service concerning that type of investment product, the fact of which has been notified to the Authority either in the document lodged under section 23F (1), or (if applicable) under section 23D(5) within the time prescribed under that provision;
- (b) whose name is entered in the public register of representatives as an appointed representative;
- (c) whose status as an appointed representative has not currently been revoked or suspended and who has not currently been prohibited by the Authority from providing that type of financial advisory service concerning that type of investment product;
- (d) whose entry in the public register of representatives indicates that he is appointed to provide that type of financial advisory service concerning that type of investment product and does not indicate that he has ceased to be so; and
- (e) whose principal —
 - (i) is licensed to provide that type of financial advisory service concerning that type of investment product; or
 - (ii) provides that type of financial advisory service concerning that type of investment product in its capacity as a person exempted from the requirement to hold a financial adviser's licence under section 23(1)(a), (b), (c), (d) or (e).

(2) For the purpose of subsection (1)(a), the Authority shall, by direction published in such manner as may be prescribed, specify the examination requirements for each type of financial advisory service concerning each type of investment product.

(3) The Authority may require the principal or individual to furnish it with such information or documents as the Authority considers necessary in relation to the proposed appointment of the individual as an appointed representative, and the principal or individual, as the case may be, shall comply with such a request.

(4) An individual shall cease to be an appointed representative in respect of any type of financial advisory service concerning any type of investment product on the date —

- (a) he ceases to be the principal's representative or to provide that type of financial advisory service concerning that type of investment product on behalf of the principal, the fact of which has been notified to the Authority under subsection (8);
- (b) his principal ceases to provide that type of financial advisory service concerning that type of investment product;
- (c) the licence of his principal is revoked or lapses or a prohibition order under section 59 is made against his principal prohibiting it from providing that type of financial advisory service concerning that type of investment product;
- (d) the individual dies; or
- (e) of the occurrence of such other circumstances as the Authority may prescribe.

(5) An individual shall not be treated as an appointed representative during the period in which the licence of his principal is suspended.

(6) Nothing in subsection (4) or (5) prevents the individual from being treated as an appointed representative in respect of that type of financial advisory service concerning that type of investment product if he becomes a representative of a new principal in respect of that type of financial advisory service concerning that type of investment product and subsection (1) is complied with.

(7) Subsections (4) and (5) shall not operate so as to —

- (a) avoid or affect any agreement, transaction or arrangement relating to any investment product entered into by that individual, whether the agreement, transaction or arrangement was entered into before, on or after the cessation or date of suspension; or
- (b) affect any right, obligation or liability arising under any such agreement, transaction or arrangement.

(8) A principal shall, no later than the next business day after the day —

- (a) an individual ceases to be his representative; or
- (b) an individual who is his representative ceases to provide any type of financial advisory service concerning any type of investment product, which he is appointed to provide,

furnish particulars of such cessation to the Authority, in the prescribed form and manner.

Provisional representative

23D.—(1) For the purposes of this Act, a provisional representative in respect of a type of financial advisory service concerning a type of investment product is an individual —

- (a) who satisfies such entry requirements as may be specified by the Authority for that type of financial advisory service concerning that type of investment product;

- (b) who intends to undergo an examination in order to satisfy the examination requirements specified by the Authority under section 23C(2) for that type of financial advisory service concerning that type of investment product, the fact of which has been notified to the Authority in the document lodged under section 23F(1);
- (c) whose name is entered in the public register of representatives as a provisional representative;
- (d) whose status as a provisional representative has not currently been revoked or suspended and who has not currently been prohibited by the Authority from providing that type of financial advisory service concerning that type of investment product;
- (e) whose entry in the public register of representatives indicates that he is appointed to provide that type of financial advisory service concerning that type of investment product and does not indicate that he has ceased to be so;
- (f) whose principal —
 - (i) is licensed to provide that type of financial advisory service concerning that type of investment product; or
 - (ii) provides that type of financial advisory service concerning that type of investment product in its capacity as a person exempted from the requirement to hold a financial adviser's licence under section 23(1)(a), (b), (c), (d) or (e);
- (g) who has not previously been appointed as a provisional representative by the Authority; and
- (h) who is not, by virtue of any circumstances prescribed by the Authority, disqualified from acting as a provisional representative.;

(2) An individual shall only be a provisional representative in respect of any type of financial advisory service concerning any type of investment product for such period of time as the Authority may specify against his name in the public register of representatives.

(3) A provisional representative in respect of any type of financial advisory service concerning any type of investment product shall immediately cease to be one —

- (a) upon the expiry of the period of time specified by the Authority under subsection (2);
- (b) if he fails to comply with any conditions or restriction imposed on him under section 23K;
- (c) upon his principal informing the Authority of the satisfaction of the examination requirements specified for that or any other type of financial advisory service concerning that or any other type of investment product under subsection (5); or
- (d) on the occurrence of such other circumstances as the Authority may prescribe.

(4) Section 23C(3) to (8) (other than subsection (4)(e) thereof) shall apply to a provisional representative —

(a) as if the reference in section 23C(6) to section 23C(1) were a reference to subsection (1); and

(b) with such other modifications and adaptations as the differences between provisional representatives and appointed representatives require.

(5) Where a provisional representative in respect of a type of financial advisory service concerning a type of investment product has satisfied the examination requirements specified for that type of financial advisory service concerning that type of investment product, his principal shall inform the Authority of that fact in the prescribed form and manner and within the prescribed time.

Offences

23E.—(1) Any person who contravenes section 23C(3) or 23D(4) (in relation to the application of section 23C(3) to a provisional representative) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000.

(2) Any person who contravenes section 23C(8), 23D(4) (in relation to the application of section 23C(8) to a provisional representative) or 23F(5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

Lodgment of documents

23F.—(1) A principal who desires to appoint an individual as an appointed or provisional representative in respect of any type of financial advisory service concerning any type of investment product shall lodge the following documents with the Authority in such form and manner as the Authority may prescribe:

(a) a notice of intent by the principal to appoint the individual as an appointed or provisional representative in respect of that type of financial advisory service concerning that type of investment product;

(b) a certificate by the principal that the individual is a fit and proper person to be an appointed or provisional representative in respect of that type of financial advisory service concerning that type of investment product; and

(c) in the case of a provisional representative, an undertaking by the principal to undertake such responsibilities in relation to the representative as may be prescribed.

(1A) Subsection (1) shall not apply to a principal who desires to appoint, as an appointed representative in respect of any type of financial advisory service concerning that type of investment product, an individual who is a provisional representative in respect of that type of financial advisory service concerning that type of investment product, if —

(a) that individual has satisfied the examination requirements specified for that type of financial advisory service concerning that type of investment product; and

(b) the principal has informed the Authority of that fact in the prescribed form and manner under section 23D(5).

(2) Subject to section 23J, the Authority shall, upon receipt of the documents lodged in accordance with subsection (1), enter in the public register of representatives the name of the representative, whether he is an appointed or provisional representative, the type of financial advisory service concerning that type of investment product which he may provide, and such other particulars as the Authority considers appropriate.

(3) The Authority may refuse to enter in the public register of representatives the particulars referred to in subsection (2) of the representative if the fee referred to in section 23H(1) or (3) (if applicable) is not paid.

(4) A principal who submits a certificate under subsection (1)(b) shall keep, in such form and manner and for such period as the Authority may prescribe, copies of all information and documents which the principal relied on in giving the certificate.

(5) Where a change occurs in any particulars of the appointed or provisional representative in any document required to be furnished to the Authority under subsection (1), the principal shall, no later than 14 days after the occurrence of such change, furnish particulars of such change to the Authority, in the prescribed form and manner.

(6) A principal who contravenes subsection (4) shall be guilty of an offence.

Representative to act for only one principal

23G.—(1) Unless otherwise approved by the Authority in writing, no appointed representative or provisional representative shall at any one time be a representative of more than one principal.

(2) Notwithstanding subsection (1), an appointed representative may be a representative of more than one principal if the principals are related corporations.

(3) The Authority may require an applicant for approval under subsection (1) to furnish it with such information or documents as the Authority considers necessary in relation to the application.

(4) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for every day or part thereof during which the offence continues after conviction.

Lodgment and annual fees

23H.—(1) An individual shall, by the prescribed time, pay to the Authority such fee as may be prescribed by the Authority for the lodgment of documents under section

23F by his principal in relation to his appointment as an appointed or provisional representative.

(2) An individual who is an appointed or provisional representative shall, by the prescribed time each year, pay such annual fee as may be prescribed by the Authority in relation to the retention of his name in the public register of representatives as an appointed or provisional representative.

(3) A representative shall pay such fee as may be prescribed by the Authority for any resubmission of a form or change in the particulars of a form lodged with the Authority in relation to his appointment as an appointed or provisional representative.

(4) Unless otherwise prescribed by the Authority, any fee paid to the Authority under this section shall not be refunded.

(5) Where the representative fails to pay the fee referred to in subsection (1) or (2) by the date on which such fee is due, the Authority may impose a late payment fee of a prescribed amount for every day or part thereof that the payment is late and both fees shall be recoverable by the Authority as a judgment debt.

(6) The fees referred to in this section shall be paid in the manner specified by the Authority.

Additional financial advisory service

23I.—(1) The principal of an appointed representative may at any time lodge a notice with the Authority of its intention to appoint the representative as an appointed representative in respect of a type of financial advisory service or a type of investment product in addition to that indicated against the representative's name in the public register of representatives.

(2) The notification shall be lodged in such form and manner as may be prescribed and shall be accompanied by a certificate by the principal that the representative is a fit and proper person to be a representative in respect of the additional type of financial advisory service or the additional type of investment product.

(3) Subject to section 23J, the Authority shall, upon receipt of the notification, enter in the public register of representatives the additional type of financial advisory service or the additional type of investment product as one which the representative may provide as a representative.

(4) The Authority may, before entering in the public register of representatives the matter set out in subsection (3), require the principal or representative to furnish it with such information or documents as the Authority considers necessary.

(5) A notification under subsection (1) shall be accompanied by a non-refundable prescribed fee which shall be paid in the manner specified by the Authority.

Power of Authority to refuse entry or revoke or suspend status of appointed or provisional representative

23J.—(1) Subject to regulations made under this Act, the Authority may refuse to enter the name and other particulars of an individual in the public register of

representatives, refuse to enter an additional type of financial advisory service or an additional type of investment product for an appointed representative in that register, or revoke the status of an individual as an appointed or provisional representative if —

- (a) being an appointed or provisional representative, he fails or ceases to act as a representative in respect of all of the types of financial advisory services concerning all of the types of investment products that were notified to the Authority as services which he is appointed to provide as a representative;
- (b) he or his principal has not provided the Authority with such information or documents as the Authority may require;
- (c) he is an undischarged bankrupt, whether in Singapore or elsewhere;
- (d) execution against him in respect of a judgment debt has been returned unsatisfied in whole or in part;
- (e) he has, whether 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;
- (f) he —
 - (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 this Act;
- (g) in the case of the proposed appointment of an appointed or provisional representative in respect of a type of financial advisory service concerning a type of investment product, or of an application to enter an additional type of financial advisory service or an additional type of investment product for an appointed representative in the register —
 - (i) the Authority is not satisfied as to his educational or other qualification or experience having regard to the nature of the duties he is to perform in relation to that type of financial advisory service concerning that type of investment product;
 - (ii) he or his principal fails to satisfy the Authority that he is a fit and proper person to be an appointed or provisional representative or to perform that type of financial advisory service concerning that type of investment product;
 - (iii) the Authority is not satisfied as to his record of past performance or expertise having regard to the nature of the duties which he is to perform in relation to that type of financial advisory service concerning that type of investment product;
 - (iv) the Authority has reason to believe that he will not perform

that type of financial advisory service concerning that type of investment product efficiently, honestly or fairly;

- (h) in the case of the revocation of the status of an individual as an appointed or provisional representative —
 - (i) he or his principal fails to satisfy the Authority, pursuant to a requirement imposed by the Authority as a condition for him to be an appointed or provisional representative, under section 23K or by regulations (as the case may be), that he remains a fit and proper person to be an appointed or provisional representative or to perform the type of financial advisory service concerning the type of investment product for which he is appointed;
 - (ii) the Authority is not satisfied with —
 - (A) his educational or other qualification or experience (being qualification or experience not known to the Authority at the time his name and particulars are entered in the public register of representatives); or
 - (B) his record of past performance or expertise, having regard to the nature of his duties as an appointed or provisional representative;
 - (iii) the Authority has reason to believe that he has not performed, or will not perform, the type of financial advisory service concerning the type of investment product for which he is appointed efficiently, honestly or fairly; or
 - (iv) the Authority has reason to believe that he has not acted in the best interests of the clients of his principal;
- (i) the Authority has reason to believe that he may not be able to act in the best interests of the clients of his principal, having regard to his reputation, character, financial integrity and reliability;
- (j) the Authority is not satisfied as to his financial standing;
- (k) there are other circumstances which are likely to lead to the improper conduct of business by, or reflect discredit on the manner of conducting the business of, the individual or any person employed by or associated with him for the purpose of his business;
- (l) the individual is in arrears of the payment of such contributions on his own behalf to the Central Provident Fund as are required under the Central Provident Fund Act (Cap. 36);
- (m) the Authority is of the opinion that it would be contrary to the interests of the public to enter the individual's name in the public register of representatives or allow him to continue as an appointed or provisional representative or to provide that additional type of financial advisory service or that additional type of investment product, as the case may be;

- (n) the Authority has reason to believe that any information or document that is furnished by him or his principal to the Authority is false or misleading;
 - (o) he has contravened any provision of this Act applicable to him, any condition or restriction imposed on him under this Act or any direction issued to him by the Authority under this Act;
 - (oa) it appears to the Authority that he has failed to satisfy any of his obligations under or arising from —
 - (i) this Act; or
 - (ii) any written direction issued by the Authority under this Act;
 - (p) a prohibition order under section 59 has been made by the Authority, and remains in force, against him;
 - (q) the licence of his principal is revoked;
 - (r) the individual fails to pay any fee referred to in section 23H; or
 - (s) in the case of the proposed appointment of a provisional representative in respect of a type of financial advisory service concerning a type of investment product —
 - (i) he is not or was not previously licensed, authorised or otherwise regulated as a representative in relation to a comparable type of financial advisory service concerning a comparable type of investment product in a foreign jurisdiction for such minimum period as may be prescribed for this sub-paragraph;
 - (ii) he was previously so licensed, authorised or regulated in a foreign jurisdiction but the period between the date of his ceasing to be so licensed, authorised or regulated and the date of his proposed appointment as a provisional representative exceeds such period as may be prescribed for this sub-paragraph; or
 - (iii) the Authority is not satisfied that the laws and practices of the jurisdiction under which the individual is or was so licensed, authorised or regulated provide protection to investors comparable to that applicable to an appointed representative under this Act.
- (2) The Authority may, if it considers it desirable to do so —
- (a) instead of revoking the status of an individual as an appointed or provisional representative, suspend that status for such period as the Authority may determine; and
 - (b) at any time —
 - (i) extend the period of suspension; or

(ii) revoke the suspension.

(3) An individual whose status as an appointed or provisional representative has been revoked shall be deemed not to be an appointed or provisional representative, as the case may be.

(4) Where the status of an individual as an appointed or provisional representative has been suspended, he shall be deemed not to be an appointed or provisional representative (as the case may be) during the period of suspension.

(5) Where the Authority has revoked the status of an individual as an appointed or provisional representative, the Authority shall —

- (a) indicate against his name in the public register of representatives that fact, which indication shall remain in the register for such period as the Authority considers appropriate; or
- (b) remove his name from the register.

(6) Where the Authority has suspended the status of an individual as an appointed or provisional representative, the Authority shall indicate against his name in the public register of representatives that fact and the period of the suspension.

(7) Where the Authority has extended or revoked a suspension of the status of an individual as an appointed or provisional representative, the Authority shall indicate against his name in the public register of representatives the new expiry date of the suspension, or indicate that he is no longer suspended, as the case may be.

(8) The Authority shall not take any action under subsection (1) or (2)(a) on the ground referred to in subsection (1)(n), if —

- (a) in a case where the information or document was furnished by the individual to the Authority, the individual proves that he had —
 - (i) made all inquiries (if any) that were reasonable in the circumstances; and
 - (ii) after doing so, believed on reasonable grounds that the information or document was not false or misleading; or
- (b) in a case where the information or document was furnished by the principal to the Authority and —
 - (i) such information or document was furnished to the principal by the individual, the individual proves that he had —
 - (A) made all inquiries (if any) that were reasonable in the circumstances; and
 - (B) after doing so, believed on reasonable grounds that the information or document was not false or misleading; or
 - (ii) such information or document was not furnished to the principal by the individual, the principal proves that he had —
 - (A) made all inquiries (if any) that were reasonable in

- the circumstances; and
- (B) after doing so, believed on reasonable grounds that the information or document was not false or misleading.

(9) Subject to subsection (10), the Authority shall not take any action under subsection (1) or (2)(a) or (b)(i) without giving the individual an opportunity to be heard.

(10) The Authority may take action under subsection (1) or (2)(a) or (b)(i) on any of the following grounds without giving the individual an opportunity to be heard:

- (a) he is an undischarged bankrupt, whether in Singapore or elsewhere;
- (b) a prohibition order under section 59 has been made by the Authority, and remains in force, against him;
- (c) he has been convicted, whether in Singapore or elsewhere, of an offence —
- (i) involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; and
 - (ii) punishable with imprisonment for a term of 3 months or more;
- (d) the ground referred to in subsection (1)(s)(i) or (ii).

(11) Any revocation or suspension by the Authority shall not operate so as to —

- (a) avoid or affect any agreement, transaction or arrangement relating to any investment product entered into by such individual, whether the agreement, transaction or arrangement was entered into before, on or after the revocation or suspension, as the case may be; or
- (b) affect any right, obligation or liability arising under any such agreement, transaction or arrangement.

Power of Authority to impose conditions or restrictions

23K.—(1) The Authority may, by notice in writing to an appointed or provisional representative, impose such conditions or restrictions as it thinks fit on him.

(2) Without prejudice to the generality of subsection (1), the Authority may, in entering the appointed or provisional representative's name in the public register of representatives, impose conditions or restrictions with respect to the type of financial advisory service concerning the type of investment product which the appointed or provisional representative may or may not provide.

(3) The Authority may, at any time by notice in writing to the appointed or provisional representative, vary any condition or restriction or impose such further condition or restriction as it may think fit.

(4) Any person who contravenes any condition or restriction imposed by the Authority under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 and, in the case of a continuing offence,

to a further fine not exceeding \$2,500 for every day or part thereof during which the offence continues after conviction.

[...]

Appeals

23M. Any person who is aggrieved by —

- (a) the refusal of the Authority under section 23J(1) to enter his name and other particulars in the public register of representatives, or to enter an additional type of financial advisory service or an additional type of investment product for him in that register; or
- (b) the revocation or suspension of his status as an appointed or provisional representative under section 23J(1) or (2)(a),

may, within 30 days after he is notified of the decision of the Authority, appeal to the Minister whose decision shall be final.

[...]

Division 3 — Securities, securities-based derivative contracts, and units in a collective investment scheme

Application of this Division

35. This Division shall apply to licensed financial advisers who provide any financial advisory service in respect of securities, securities-based derivative contracts, or units in a collective investment scheme.

Licensed financial adviser to disclose certain interests in securities, securities-based derivative contracts, and units in a collective investment scheme

36.—(1) Where a licensed financial adviser sends a circular or other similar written communication in which he makes a recommendation, whether expressly or by implication, with respect to any securities, securities-based derivative contracts, or units in a collective investment scheme, he shall include in the circular or other communication, in type not less legible than that used in the remainder of the circular or other communication, a concise statement of the nature of any interest in, or any interest in the acquisition or disposal of, the securities, securities-based derivative contracts, or units in a collective investment scheme that he, or a person associated with or connected to him, has at the date on which the circular or other communication is sent.

(2) Where a licensed financial adviser is charged with an offence in respect of a contravention of subsection (1), it shall be a defence for the licensed financial adviser to prove that, at the time the circular or other communication was sent, he was not aware and could not reasonably be expected to have been aware —

- (a) that he had an interest in, or an interest in the acquisition or disposal of, the securities, securities-based derivative contracts, or units in a collective investment scheme; or
- (b) that the person associated with or connected to him had an interest in, or an interest in the acquisition or disposal of, the securities, securities-based derivative contracts, or units in a collective investment scheme,

as the case may be.

(3) For the purposes of subsections (1) and (2) —

- (a) an interest of a person in the disposal of any securities includes any financial benefit or advantage that will, or is likely to, accrue directly or indirectly to the person, upon or arising out of the disposal of the securities, securities-based derivative contracts, or units in a collective investment scheme;
- (b) without limiting the generality of paragraph (a), a person who has entered into an underwriting agreement in respect of any securities, securities-based derivative contracts, or units in a collective investment scheme shall be deemed to have an interest in the acquisition or disposal of the securities, securities-based derivative contracts, or units in a collective investment scheme; and
- (c) notwithstanding section 2(1) or 3, a person is not connected to or associated with another person unless the person and the other person are acting jointly, or otherwise acting under or in accordance with an arrangement made between them, in relation to the sending of the circular or other communication.

(4) [*Deleted by Act 15 of 2003*]

(5) When a licensed financial adviser sends to a person a circular or other communication to which subsection (1) applies, the licensed financial adviser shall preserve a copy of the circular or other communication for 5 years.

(6) For the purposes of this section, a circular or other communication sent to a person shall, if it is signed by an officer of a licensed financial adviser, be deemed to have been sent by the financial adviser.

(7) The Authority may, by regulations, exempt any person or class of persons, or any securities, securities-based derivative contracts, or units in a collective investment scheme or class of securities, securities-based derivative contracts, or units in a collective investment scheme from the application of this section, subject to such terms or conditions as the Authority considers appropriate.

(8) Any licensed financial adviser who contravenes this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both.

[...]

PART IV

ACCOUNTS AND AUDIT

[...]

PART V

POWERS OF AUTHORITY

[...]

Records and public register of representatives

63A.—(1) The Authority shall keep in such form as it thinks fit records of the following information of each appointed representative and provisional representative:

- (a) his name;
- (b) the name of his current principal and every past principal (if any);
- (c) the current and past types of financial advisory service concerning any type of investment product provided by him, and the date of commencement and cessation (if any) of such service;
- (d) where the business of the principal for which he acts is carried on under a name or style other than the name of the principal, the name or style under which the business is carried on;
- (e) disciplinary proceedings or other action taken by the Authority against him and published under section 67; and
- (f) such other information as may be prescribed.

(2) The information referred to in subsection (1) need only be kept for such period of time as the Authority considers appropriate.

(3) The Authority may reproduce the records referred to in subsection (1) or any part of them in a public register of representatives which shall be published in such manner as it considers appropriate.

[...]

PART VI

SUPERVISION AND INVESTIGATION

[...]

PART VII

ASSISTANCE TO FOREIGN REGULATORY AUTHORITIES

Interpretation of this Part

77. In this Part, unless the context otherwise requires —

“enforce” means enforce through criminal, civil or administrative proceedings;

“enforcement” means the taking of any action to enforce a law or regulatory requirement against a specified person, being a law or regulatory requirement that relates to any financial advisory service in the foreign country of the regulatory authority concerned;

“foreign country” means a country or territory other than Singapore;

“investigation” means an investigation to determine if a specified person has contravened or is contravening a law or regulatory requirement, being a law or regulatory requirement that relates to any financial advisory service in the foreign country of the regulatory authority concerned;

“material” includes any information, book, document or other record in any form whatsoever, and any container or article relating thereto;

“regulatory authority”, in relation to a foreign country, means an authority of the foreign country exercising any function that corresponds to a regulatory function of the Authority under this Act;

“relevant day” means —

(a) in relation to any financial advisory service in respect of securities, securities-based derivative contracts, units in a collective investment scheme or futures contracts, 6th March 2000; or

(b) in relation to any other financial advisory service, 1st October 2002;

“supervision”, in relation to a regulatory authority, means the taking of any action for or in connection with the supervision of a subject-matter in the foreign country of the regulatory authority, being a subject-matter relating to any financial advisory service.

[...]

PART VIII

OFFENCES

[...]

PART IX

APPEALS

[...]

PART X

MISCELLANEOUS

[...]

Power of court to prohibit payment or transfer of moneys, investment products, etc.

99.—(1) A court may, on an application by the Authority, make one or more of the orders referred to in subsection (2) where —

- (a) an investigation is being carried out under this Act in relation to any act or omission by a person, being an act or omission that constitutes or may constitute a contravention of this Act;
- (b) a criminal proceeding has been instituted against a person for an offence under this Act; or
- (c) a civil proceeding has been instituted against a person under this Act, and the court considers it necessary or desirable to do so for the purpose of protecting the interests of any person to whom the person referred to in paragraph (a) or (b) or this paragraph (referred to in this section as the relevant person) is liable or may become liable to pay any moneys, whether in respect of a debt, or by way of damages or otherwise, or to account for any investment products or other property.

(2) The orders of court that may be made under subsection (1) are as follows:

- (a) an order prohibiting, either absolutely or subject to conditions, a person who is indebted to the relevant person or any person associated with the relevant person from making a payment in total or partial discharge of such debt that is due or accruing due to the relevant person, or to another person at the direction or request of the relevant person;
- (b) an order prohibiting, either absolutely or subject to conditions, a person holding moneys, investment products or other property, on behalf of the relevant person or on behalf of any person associated with the relevant

person, from paying, transferring or otherwise parting with possession of all or any of the moneys, investment products or other property, to the relevant person, or to another person at the direction or request of the relevant person;

- (c) an order prohibiting, either absolutely or subject to conditions, the taking or sending out of Singapore of moneys of the relevant person or of any person associated with the relevant person;
- (d) an order prohibiting, either absolutely or subject to conditions, the taking, sending or transfer of investment products or documents of title to investment products or other property of the relevant person or of any person who is associated with the relevant person, from a place or person in Singapore to a place or person outside Singapore (including the transfer of securities, [securities-based derivative contracts, and units in a collective investment scheme](#) from a register in Singapore to a register outside Singapore);
- (e) an order appointing —
 - (i) where the relevant person is an individual, a receiver, having such powers as the court orders, of the property or part of the property of the relevant person; or
 - (ii) where the relevant person is a corporation, a receiver or receiver and manager, having such powers as the court orders, of the property or part of the property of the relevant person;
- (f) where the relevant person is an individual, an order requiring the relevant person to deliver up to the court his passport and such other documents as the court thinks fit;
- (g) where the relevant person is an individual, an order prohibiting the relevant person from leaving Singapore without the consent of the court.

(3) Where an application is made to the court for any order referred to in subsection (2), the court may, if the court is of the opinion that it is desirable to do so, before considering the application, make any interim order as it thinks fit pending the determination of the application.

(4) Where the Authority makes an application to the court for the making of an order or interim order under this section, the court shall not require the Authority or any other person, as a condition of granting the order or interim order, to give any undertaking as to damages.

(5) Where the court has made an order or interim order under this section, the court may, on application by the Authority or by any person affected by the order or interim order, rescind or vary the order or interim order.

(6) An order or interim order made under this section may be expressed to operate for a period specified in the order or interim order or until the order or interim order is rescinded.

(7) Any person who contravenes an order or interim order made by the court

under this section that is applicable to him shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.

(8) Subsection (7) shall not affect the powers of the court in relation to the punishment for contempt of court.

[...]

Regulations

104.—(1) The Authority may make regulations for carrying out the purposes and provisions of this Act and for the due administration thereof.

(2) Without prejudice to the generality of subsection (1), the Authority may make regulations for or with respect to —

- (a) applications for the grant of financial adviser's licences, and matters incidental thereto;
- (aa) the appointment of an individual as an appointed or provisional representative, the entering of his name or an additional type of financial advisory service or an additional type of investment product for him in the public register of representatives, and the revocation or suspension of his status as an appointed or provisional representative;
- (ab) specifying, in the context of the granting of an unsecured advance, unsecured loan or unsecured credit facility by a licensed financial adviser to any officer, employee or representative of the licensed financial adviser, or any person related, in the manner prescribed by the regulations, to any such officer, employee or representative —
 - (i) what constitutes any such unsecured advance, unsecured loan or unsecured credit facility; and
 - (ii) the requirements and restrictions relating to any such grant;
- (b) the activities of, and standards to be maintained by, a licensed financial adviser, exempt financial adviser or representative, including the manner, method and place of soliciting business and the conduct of such solicitation;
- (c) *[Deleted by Act 15 of 2003]*
- (d) the particulars to be recorded in, or in respect of, books kept by any licensed financial adviser;
- (e) the remuneration of an auditor appointed under this Act and the costs of an audit carried out under this Act;
- (f) the manner in which a licensed financial adviser, exempt financial adviser or representative conducts his dealings with the clients of the licensed financial adviser or exempt financial adviser, as the case may be;

- (g) the purchase or sale of investment products directly or indirectly by licensed financial advisers and their appointed or provisional representatives for their own account;
- (h) the disclosure by a licensed financial adviser, exempt financial adviser or representative of any material interest that he may have in a proposed transaction relating to purchasing, subscribing for or trading in capital markets products;
- (i) the forms for the purposes of this Act;
- (j) the fees to be paid in respect of any matter or thing required for the purposes of this Act, and the refund and remission, whether in whole or in part, of such fees;
- (k) the collection, from any licensed financial adviser or exempt financial adviser, by or on behalf of the Authority at such intervals or on such occasions as may be prescribed, of statistical information as to such matters relevant to investment products as may be prescribed, and for the collection and use of such information for any purpose, whether or not connected with the prescribed investment products;
- (l) the maintenance by a proprietor or publisher of a newspaper of the particulars of any financial journalist who has contributed any advice, analysis or report concerning any securities, securities-based derivative contracts, or units in a collective investment scheme that has been published in the newspaper, and the provision of such particulars to the Authority;
- (m) the maintenance by a licensed financial adviser, representative of a licensed financial adviser and applicant for a financial adviser's licence of registers of their interests in securities, securities-based derivative contracts, and units in a collective investment scheme and their duties relating to the registers, and matters relating thereto; and
- (n) all matters and things which are required or permitted to be prescribed by this Act, or which may be necessary or expedient to be prescribed to give effect to this Act.

(3) No use shall be made of any information obtained by or on behalf of the Authority by virtue only of subsection (2)(k) except in a form which does not disclose the affairs of any particular person.

(4) Except as otherwise expressly provided in this Act, regulations made under this Act —

- (a) may be of general or specific application;
- (aa) may contain provisions of a savings or transitional nature;
- (b) may provide that a contravention of any specified provision thereof shall be an offence; and

- (c) may provide for penalties not exceeding a fine of \$50,000 or imprisonment for a term not exceeding 12 months or both for each offence and, in the case of a continuing offence, a further penalty not exceeding a fine of 10% of the maximum fine prescribed for that offence for every day or part thereof during which the offence continues after conviction.

(5) Where a person is charged with an offence for contravening a regulation made under subsection (2)(m), it shall be a defence for the person to prove —

- (a) that his contravention was due to his not being aware of a fact or occurrence, the existence of which was necessary to constitute the offence; and
- (b) that —
 - (i) he was not so aware on the date of the summons issued for the charge; or
 - (ii) he became so aware before the date of the summons and complied with the regulation within 14 days after becoming so aware.

(6) For the purposes of subsection (5), a person shall, in the absence of proof to the contrary, be conclusively presumed to have been aware of a fact or occurrence at a particular time which an employee or agent of the person, being an employee or agent having duties or acting in relation to his employer's or principal's interest or interests in the securities, securities-based derivative contracts, or units in a collective investment scheme concerned, was aware of at that time.

~~Regulations to apply Act to persons previously regulated under Commodity Trading Act~~

~~104A.—(1) The Authority may by regulations prescribe such provisions as it may consider necessary or expedient for the purpose of applying this Act in relation to commodity futures trading advisers and commodity futures trading adviser's representatives; and for this purpose this Act shall apply with such modifications as may be prescribed.~~

~~(2) In subsection (1), “commodity futures trading adviser” and “commodity futures trading adviser's representative” have the meanings given to those expressions in the Commodity Trading Act (Cap. 48A) in force immediately before the commencement of this provision.~~

[...]

FIRST SCHEDULE

EXCLUDED FINANCIAL ADVISERS

[...]

5. Any person who provides credit rating services, where any analysis or report issued or promulgated by that person —

- (a) is issued or promulgated solely as incidental to the conduct of that person's business of providing credit rating services; and
- (b) does not contain any specific recommendation with respect to the acquiring of, disposing of, subscribing for, or underwriting of, any securities, securities-based derivative contracts, or units in a collective investment scheme.

[...]

SECOND SCHEDULE

[...]

THIRD SCHEDULE

[...]