

**DRAFT AMENDMENTS TO  
THE SECURITIES AND FUTURES (LICENSING AND CONDUCT OF  
BUSINESS) REGULATIONS**

DISCLAIMER: This version of amendments is in draft form and subject to change. It is also subject to review by the Attorney-General's Chambers.

[The provisions that have been highlighted are provisions that were consulted upon in Annex 2 of the Consultation Paper on Draft Regulations to Enhance the Regulatory Framework for Unlisted Margined Derivatives Offered to Retail Investors issued on 14 March 2014. The provisions are subject to change and review by the Attorney-General's Chambers.]

## PART I PRELIMINARY

### Definitions

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

“accounting standards” means the accounting standards made or formulated by the Accounting Standards Council under Part III of the Accounting Standards Act (Cap. 2B);

[....]

“associate”, in relation to an entity (referred to in this definition as the first entity), means –

- (a) any entity in which the first entity controls the composition of the board of directors or such corresponding officers as may be prescribed;
- (b) any entity in which the first entity controls more than half of the voting power or such measure corresponding to voting power as may be prescribed;
- (c) any entity in which the first entity holds more than half of the total number of issued shares or such corresponding interest as may be prescribed;
- (d) a subsidiary of any other entity which is an associate by reason of paragraph (a), (b) or (c);
- (e) any entity (referred to in this paragraph as the second entity) in which —
  - (i) the first entity; or
  - (ii) any entity which is an associate by reason of paragraph (a), (b), (c) or (d);

has, or the entities in subparagraphs (i) and (ii) together have, an interest in shares entitling the beneficial owners thereof the right to cast (whether by proxy or in person) not less than 20% but not more than 50% of the total votes able to be cast at a general meeting of the second entity, or such corresponding interest as may be prescribed; or

(f) any entity (not being one which is an associate by reason of paragraph (a), (b), (c), (d) or (e)) the policies of which —

(i) the first entity; or

(ii) any entity which is an associate by reason of paragraph (a), (b), (c), (d) or (e),

or the entities in subparagraphs (i) and (ii) together are able to control or influence materially;

[...]

“group”, in relation to a holder of the capital markets services licence or an exempt person, means a group of entities comprising the holder and —

(a) any of its associates; and

(b) any other entity treated as part of the holder or exempt person’s group of companies according to the accounting standards applicable to the holder or exempt person;

[...]

## **PART II**

### **LICENSING, REPRESENTATIVE NOTIFICATION AND RELATED MATTERS**

#### **Obligation to notify Authority of certain matters**

**11C.—(1) A holder of the capital markets services licence shall immediately inform the Authority when the holder becomes aware:**

(a) that it has contravened or likely to contravene, any provisions of any Acts administered, or requirements imposed, by the Authority;

(b) of any development that has occurred, or is likely to occur, which the holder has reasonable grounds to believe has materially affected adversely, or is likely to materially affect adversely –

(i) the financial soundness or reputation of the holder;

(ii) the financial soundness or reputation of any entity in the group of the holder where such development affects the holder;

(iii) such other factors as the Authority may specify by notice in writing;

- (c) that a person who holds an office or appointment under section 96(1) of the Act is, in accordance with the guidelines issued by the Authority under the Act, no longer a fit and proper person to hold that office or appointment;
- (d) that a person approved under section 97A is, in accordance with the guidelines issued by the Authority under the Act, not a fit and proper person; or
- (e) having regard to the likely influence of a person approved under section 97A, the holder is not likely to be able to conduct its business prudently and comply with the provisions of the Act and directions made thereunder.

(2) Any person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

[...]

## **PART VI MISCELLANEOUS**

### **Registered Fund Management Companies**

**54A.** —(1) Sections 102(1) to (4), 104(1), 104A, 106, 107(1), (2) and (5) and 112(1) of the Act and Divisions 1, 2 and 3 of Part III (other than regulations 19, 30 and 31) of these Regulations and regulations 11C, 13, 13B, 39, 40, 43, 46 and 46A shall, with the necessary modifications, apply to each Registered Fund Management Company in respect of its business in fund management as those provisions apply to the holder of a capital markets services licence and, where applicable, shall, with the necessary modifications, apply to a representative of a Registered Fund Management Company when acting as such, as those provisions apply to the representative of the holder of a capital markets services licence.

(2) As a condition under section 99(4) of the Act, a Registered Fund Management Company must remove its chief executive officer or any of its directors if the Authority is of the opinion that the chief executive officer or the director has failed to ensure compliance by the Company with any of its duties under regulations 13 and 13B, as applied to the Company under paragraph (1).

## Offences

**55.** Any person who contravenes regulation 3D, 4(1), (2) or (3), 5(1), (2), (3), (4), (5), (6) or (7), 7(2A), 11(2), (3) or (4), 11A(2) or (3), 11C, 13, 13B, 14(4), 16(1) ~~or (2), (2) or (5)~~, 17(1) or (3), 18, 20(2), 21, 22(2), 26(1) or (2), 27(1), 28, 29, 31, 32, 33(2), (4) or (5), 34, 35, 37, 38(1), 39(1), (2) or (3), 40(1), (2) or (3), 41, 43(1) or (2), 45(1), (3), (4), (5), (6) or (7), 46, 47, 47F or 48(1), paragraph 5(7A), (7G), (7I) or (7J) or 7(6) of the Second Schedule, or a direction issued by the Authority under regulation 51 or paragraph 5(7H) of the Second Schedule, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

[...]

## SECOND SCHEDULE EXEMPTIONS FROM SECTIONS 82(1) AND 99B(1) OF THE ACT

[...]

### 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 subparagraph (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 resident in Singapore who carries on business in Singapore 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).

(2A) A person otherwise exempted under sub-paragraph (1)(b) shall not be or shall cease to be so exempted if —

- (a) he is the holder of a capital markets services licence in respect of any regulated activity;
- (b) he has not commenced business in advising on corporate finance in accordance with sub-paragraph (1)(b) within 6 months from the date of commencement of business as specified in the notice that the person has lodged with the Authority in accordance with sub-paragraph (6)(a); or
- (c) he has ceased to carry on business in advising on corporate finance in accordance with sub-paragraph (1)(b), and has not resumed business in the same regulated activity in accordance with that sub-paragraph, within a continuous period of 6 months from the date of cessation.

(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 an document evidencing the status of such persons; and

- (c) immediately inform the Authority when he becomes aware:

- (i) that he has contravened or is likely to contravene, any provisions of any Acts administered, or requirements imposed, by the Authority;

- (ii) of any development that has occurred, or is likely to occur, which the person has reasonable grounds to believe has materially affected adversely, or is likely to materially affect adversely–

- (A) the financial soundness or reputation of the person;

- (B) the financial soundness or reputation of any entity in the group of the persons where such development affects the person; or

- (C) such other factors as the Authority may specify by notice in writing.

(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).

[...]

**THIRD SCHEDULE  
FEES**

<i>No.</i>	<i>First column Provision of Act</i>	<i>Second column Matter</i>	<i>Third column Amount</i>	<i>Fourth column Manner and Time of Payment</i>
[...]				
2.	Section 85(1)	Annual licence fee for capital markets services licence in respect of —		(a) Where the holder has no GIRO arrangement with the Authority, by cheque by the date specified in the fee advice.
		(a) dealing in securities —		(b) Where the holder has GIRO arrangement with the Authority, by GIRO by <del>19th December of the preceding year</del> <u>the date specified in the fee advice.</u>
		(i) where the holder is a member of the Singapore Exchange Securities Trading Limited; or	\$8,000	
		(ii) where the holder is any other person;	\$4,000	
		(b) fund management;	\$4,000	
		(c) advising on corporate finance;	\$4,000	
		(d) trading in futures contracts;	\$2,000	
		(e) leveraged foreign exchange trading;	\$2,000	
		(f) securities	\$2,000	

		financing;	
		(g) providing custodial services for securities;	\$2,000
		(h) real estate investment trust management;	\$4,000
		(i) providing credit rating services	\$4,000
	[...]		
6.	Section 99K(2)	Annual fee for retention of name of appointed or provisional representative in the public register of representatives in any other year, where the regulated activity is —	(a) Where principal has no GIRO arrangement with the Authority, by cheque by the date specified in the fee advice.
		(a) dealing in securities —	(b) Where principal has GIRO arrangement with the Authority, by GIRO by <del>19th December of the preceding year or, if the name of the representative is entered in the public register of representatives in that preceding year during the period between 20th and 31st December (both dates inclusive), by 16th January of that other year</del> <u>the date specified in the fee advice.</u>
		(i) where the principal is a member of the Singapore Exchange Securities	\$700

Trading Limited; or	
(ii) where the principal is any other person;	\$200
(b) fund management;	\$200
(c) advising on corporate finance;	\$200
(d) trading in futures contracts;	\$200
(e) leveraged foreign exchange trading;	\$200
(f) real estate investment trust management; or	\$200
(g) providing credit rating services,	\$200
or where there is more than one regulated activity	the higher or highest of the relevant amounts set out above for those regulated activities

[...]