

**SECURITIES AND FUTURES (FINANCIAL AND MARGIN
REQUIREMENTS FOR HOLDERS OF CAPITAL MARKETS
SERVICES LICENCES)
REGULATIONS 2009**

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

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

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

PART I

PRELIMINARY

[.....]

PART II

BASE CAPITAL REQUIREMENT

Grant of licence

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

- (a) where the corporation is incorporated in Singapore, its base capital; or
- (b) where the corporation is a foreign company, its net head office funds, is not less than —
 - (i) the base capital requirement applicable to the corporation under the First Schedule; or
 - (ii) such other requirement as the Authority may approve as appropriate having regard to the operations of the corporation.

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

4.—(1) The holder of a licence shall not cause or permit —

- (a) where it is incorporated in Singapore, its base capital; or

- (b) where it is a foreign company, its net head office funds, to fall below the base capital requirement applicable to the holder under regulation 3 or paragraph (1A), as the case may be.
- (1A) If a holder of a licence, at any time during the period of its licence, intends to commence or cease business in any regulated activity, or change the scope of its business in a regulated activity, such that a different base capital requirement shall apply to it, it shall obtain the prior written approval of the Authority to comply with the new base capital requirement applicable to it.
- (2) If the holder of a licence fails to comply with paragraph (1) or becomes aware that it will fail to comply with that paragraph, the holder shall immediately notify —
- (a) the Authority; and
 - (b) the approved exchange or designated clearing house of which the holder is a member (if applicable).
- (3) If the Authority is notified by the holder of a licence under paragraph (2) or becomes aware that the holder has failed to comply with paragraph (1), the Authority may —
- (a) direct the holder to immediately do one or more of the following:
 - (i) cease any increase in positions, securities financing, funds accepted for management and assets accepted for custody for any account carried by the holder;
 - (ii) transfer all or part of any customer's positions, securities margins, collateral, assets and accounts to one or more other holders of licences;
 - (iii) operate its business in such manner and on such conditions as the Authority may impose;
 - (iv) cease carrying on business in any or all of the regulated activities permitted under its licence until such time the holder complies with paragraph (1), except that the holder may continue trading for the purposes of liquidation only or unless otherwise directed by the Authority; or
 - (b) revoke the licence of the holder under section 95 (2) ~~(a)~~ of the Act.
- (4) The Authority may revoke the licence of the holder under section 95 (2) ~~(a)~~ of the Act if the holder fails to comply with a direction issued to it under paragraph (3) (a).

PART III

FINANCIAL RESOURCES OR ADJUSTED NET CAPITAL REQUIREMENT

Division 1 – Holder of licence to deal in securities or trade in futures contracts which is member of approved exchange or designated clearing house

[.....]

Where financial resources of holder of licence which is member of approved exchange or designated clearing house fall below total risk requirement

6.—(1) The holder of a licence shall not cause or permit —

- (a) where it is incorporated in Singapore, its financial resources; or
- (b) where it is a foreign company, its adjusted net head office funds,
to fall below its total risk requirement.

(2) For the purpose of paragraph (1) and subject to compliance with such requirements and conditions as the Authority may impose on the holder of a licence, the holder may include qualifying letters of credit in its financial resources or adjusted net head office funds (as the case may be).

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

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

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

(5) The licence of the holder of a licence shall lapse when its financial resources or adjusted net head office funds (as the case may be) have fallen below its total risk requirement for 4 consecutive weeks.

Where financial resources of holder of licence which is member of approved exchange or designated clearing house fall below 120% of total risk requirement

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

(a) in the case where the holder is incorporated in Singapore, its financial resources; or

(b) in the case where the holder is a foreign company, its adjusted net head office funds,

fall below 120% of its total risk requirement.

(2) For the purpose of paragraph (1) and subject to compliance with such requirements and conditions as the Authority may impose on the holder of a licence, the holder may include qualifying letters of credit in its financial resources or adjusted net head office funds (as the case may be).

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

(a) submit the statements referred to in regulation 27 (1) to the approved exchange or designated clearing house (as the case may be) on a weekly basis or at such other interval as may be determined by the approved exchange or designated clearing house, until the financial resources or adjusted net head office funds of the holder are not less than 120% of the total risk requirement of the holder for 8 consecutive weeks or such other period as may be determined by the approved exchange or designated clearing house;

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

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

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

(4) The Authority may —

- (a) review, affirm, modify or set aside any direction issued by an approved exchange or a designated clearing house to the holder of a licence under paragraph (3); or
 - (b) direct the holder to cease carrying on business in any or all of the regulated activities permitted under its licence until such time that the holder has demonstrated that its financial resources or adjusted net head office funds (as the case may be) are not less than 120% of the total risk requirement of the holder, except that the holder may continue trading for the purposes of liquidation only or unless otherwise directed by the Authority.
- (4A) Where an approved exchange or designated clearing house informs the Authority that the holder of a licence has failed to comply with any direction given to it under paragraph (3), the Authority may, if it thinks necessary or expedient, direct the holder of the licence to comply with that direction, within such time as may be specified by the Authority and subject to such modifications that the Authority may make to the direction.
- (5) Any statement required to be submitted under paragraph (3) (a) shall be —
- (a) signed by a director of the holder of a licence or such other person as the Authority may allow; and
 - (b) lodged with the approved exchange or designated clearing house of which the holder is a member not later than one business day after the end of the week or other interval referred to in paragraph (3) (a).
- (6) The Authority may revoke the licence of the holder under section 95 (2) ~~(a)~~ of the Act if the holder fails to comply with a direction issued to it under paragraph (3), (4) (b) or (4A).

Division 2 — Holder of licence to deal in securities, trade in futures contracts or carry out leveraged foreign exchange trading which is not member of approved exchange or designated clearing house

[.....]

Where adjusted net capital of holder of licence to deal in securities which is not member of securities exchange falls below \$250,000

9.—(1) The holder of a licence under regulation 8 (1) (a) shall not cause or permit its adjusted net capital to fall below \$250,000.

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

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

(4) The licence of the holder shall lapse when the adjusted net capital of the holder has fallen below \$250,000 for 4 consecutive weeks.

(5) In this regulation and regulation 10, “adjusted net capital” has the same meaning as in paragraph 1 of the Fifth Schedule.

Where adjusted net capital of holder of licence to deal in securities which is not member of securities exchange falls below \$400,000

10.—(1) The holder of a licence under regulation 8 (1) (a) shall immediately notify the Authority if its adjusted net capital falls below \$400,000.

(2) If the Authority is notified by the holder under paragraph (1) or becomes aware that the adjusted net capital of the holder has fallen below \$400,000 for 5 consecutive business days or more, the Authority may —

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

(i) submit the statement referred to in regulation 27 (2) (a) to the Authority on a weekly basis or at such other interval as may be determined by the Authority, until the adjusted net capital of the holder is not less than \$400,000 for 8 consecutive weeks or such other period as may be determined by the Authority;

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

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

(iv) operate its business in such manner and on such conditions as the Authority may impose;

(v) cease carrying on business in any or all of the regulated activities permitted under its licence until such time the holder demonstrates that its adjusted net capital is not less than \$400,000, except that the holder may continue trading for the purposes of liquidation only or if otherwise directed by the Authority; or

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

- (3) Any statement required to be submitted under paragraph (2) (a) (i) shall be —
- (a) signed by a director of the holder or such other person as the Authority may allow; and
 - (b) lodged with the Authority not later than 3 business days after the end of the week or other interval referred to in paragraph (2) (a) (i).
- (4) The Authority may revoke the licence of the holder under section 95 (2) ~~(a)~~ of the Act if the holder fails to comply with a direction issued to it under paragraph (2) (a).

Where adjusted net capital of holder of licence to trade in futures contracts or carry out leveraged foreign exchange trading and which is not member of futures exchange falls below \$2 million or adjusted net capital requirement 11.—

(1) The holder of a licence under regulation 8 (1) (b) or (c) shall not cause or permit its adjusted net capital to fall below \$2 million or its adjusted net capital requirement, whichever is the higher.

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

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

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

(i) submit the statement referred to in regulation 27 (2) (b) to the Authority on a weekly basis or at such other interval as may be determined by the Authority, until the adjusted net capital of the holder is not less than \$2 million or its adjusted net capital requirement, whichever is the higher, for 8 consecutive weeks or such other period as may be determined by the Authority;

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

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

(iv) operate its business in such manner and on such conditions as the Authority may impose;

(v) cease carrying on business in any or all of the regulated activities permitted under its licence until such time the holder complies with paragraph (1), except that the holder may continue

trading for the purposes of liquidation only or if otherwise directed by the Authority; or

- (b) revoke the licence of the holder under section 95 (2) ~~(a)~~ of the Act.
- (4) Any statement required to be submitted under paragraph (3) (a) (i) shall be —
- (a) signed by a director of the holder or such other person as the Authority may allow; and
 - (b) lodged with the Authority not later than 3 business days after the end of the week or other interval referred to in paragraph (3) (a) (i).
- (5) The Authority may revoke the licence of the holder under section 95 (2) ~~(a)~~ of the Act if the holder fails to comply with a direction issued to it under paragraph (3) (a).
- (6) The licence of the holder shall lapse when the adjusted net capital of the holder has fallen below \$2 million or its adjusted net capital requirement, whichever is the higher, for 4 consecutive weeks.
- (7) In this regulation —
- "adjusted net capital" has the same meaning as in paragraph 2 of the Fifth Schedule;
- "adjusted net capital requirement" has the same meaning as in paragraph 3 of the Fifth Schedule.

Division 3 — Holder of any other licence

[.....]

Where financial resources of holder of any other licence fall below total risk requirement

13.—(1) The holder of a licence shall not cause or permit its financial resources to fall below its total risk requirement.

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

- (a) the Authority; and
 - (b) the approved exchange of which the holder is a member (if applicable).
- (3) If the Authority is notified by the holder under paragraph (2) or becomes aware that the holder has failed to comply with paragraph (1), the Authority may revoke the licence of the holder under section 95 (2) ~~(a)~~ of the Act.

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

14.—(1) The holder of a licence shall immediately notify the Authority, and the approved exchange of which the holder is a member (if applicable), if its financial resources fall below 120% of its total risk requirement.

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

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

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

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

(iii) operate its business in such manner and on such conditions as the Authority may impose;

(iv) cease carrying on business in any or all of the regulated activities permitted under its licence until such time that the holder has demonstrated that its financial resources are not less than 120% of the total risk requirement of the holder, except that the holder may continue trading for the purposes of liquidation only or if otherwise directed by the Authority; or

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

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

PART IV

AGGREGATE INDEBTEDNESS

[.....]

Where aggregate indebtedness exceeds 1,200% of aggregate resources

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

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

(a) the Authority; and

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

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

(4) The licence of the holder of a licence shall lapse when the aggregate indebtedness of the holder has exceeded 1,200% of the aggregate resources of the holder for 4 consecutive weeks.

Where aggregate indebtedness exceeds 600% of aggregate resources

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

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

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

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

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

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

(3) The Authority may —

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

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

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

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

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

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

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

PART V

RESERVE FUND AND OTHER FINANCIAL REQUIREMENTS

[.....]

PART VI

MARGIN REQUIREMENTS

[.....]

PART VII

LODGEMENT OF DOCUMENTS

Forms

26.—(1) The forms to be used for the purposes of these Regulations are those set out at the Authority's Internet website at <http://www.mas.gov.sg> (under "Regulations and Licensing", ~~"Securities, Futures and Fund Management"~~), and any reference in these Regulations to a numbered form shall be construed as a reference to the current version of the form bearing the corresponding number which is displayed at that website.

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

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

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

PART VIII

EXEMPTION

[.....]

PART VIIIA

MISCELLANEOUS

[.....]

PART IX

[.....]

FIRST SCHEDULE

Regulation 3

BASE CAPITAL REQUIREMENT FOR A CORPORATION TO BE GRANTED A CAPITAL MARKETS SERVICES LICENCE ~~OR A HOLDER OF A CAPITAL MARKETS SERVICES LICENCE WHICH IS TO BE RENEWED~~

1. Subject to paragraph 2, the base capital requirement applicable to a corporation to be granted a capital markets services licence ~~or a holder of a capital markets services licence which is to be renewed~~ in respect of a regulated activity in the first column of the table below shall be that set out opposite thereto in the second column of the table.

[.....]

SECOND SCHEDULE

Regulations 2 and 18

FINANCIAL RESOURCES, ADJUSTED NET HEAD OFFICE FUNDS, QUALIFYING LETTERS OF CREDIT AND QUALIFYING SUBORDINATED LOANS FOR HOLDER OF LICENCE REFERRED TO IN REGULATION 5

[.....]

THIRD SCHEDULE

Regulation 2

TOTAL RISK REQUIREMENT FOR HOLDER OF LICENCE REFERRED TO IN REGULATION 5

[.....]

FOURTH SCHEDULE

Regulation 2 and Third Schedule

TABLE 1 – COUNTERPARTY RISK WEIGHTS

[.....]

FIFTH SCHEDULE

Regulations 9 (5), 11 (7), 24 (7) and 25 (3)

**ADJUSTED NET CAPITAL AND ADJUSTED NET CAPITAL
REQUIREMENT FOR HOLDER OF LICENCE REFERRED
TO IN REGULATION 8 (1)**

[.....]

SIXTH SCHEDULE

Regulations 12 and 24 (6)

**FINANCIAL RESOURCES AND TOTAL RISK REQUIREMENT FOR
HOLDER OF LICENCE REFERRED TO IN REGULATION 12 (1)**

[.....]

SEVENTH SCHEDULE

[.....]