

CONSULTATION PAPER

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Draft Regulations Pursuant to the SFA and the FAA

MAS

Monetary Authority of Singapore

DRAFT REGULATIONS PURSUANT TO SECURITIES AND FUTURES ACT AND FINANCIAL ADVISERS ACT

PREFACE

The Securities and Futures (Amendment) Act 2009 and the Financial Advisers (Amendment) Act 2009 were passed in Parliament on 19 January 2009. Prior to this, MAS conducted public consultations on the amendments to the Securities and Futures Act and the Financial Advisers Act in consultation papers dated 25 September 2006, 5 Dec 2006 and 11 October 2007. MAS' responses to the comments received during policy consultations are published on our website.

2 MAS will be issuing new Regulations and amending certain existing Regulations to support the amendments set out in the Securities and Futures (Amendment) Act 2009 and Financial Advisers (Amendment) Act 2009.

3 MAS invites interested parties to provide their comments and feedback on the draft Regulations to:

Market Conduct Policy Division
Capital Markets Department
Monetary Authority of Singapore
10 Shenton Way
MAS Building
Singapore 079117

Email: SF_FA_Regs@mas.gov.sg
Fax: (65) 6225-4063

MAS requests that all comments and feedback be submitted by 21 July 2009.

4 Please note that all submissions received may be made public unless confidentiality is specifically requested for whole or part of the submission.

REGULATIONS PURSUANT TO THE SECURITIES AND FUTURES ACT (“SFA”)

CAPITAL MARKETS LICENSING AND BUSINESS CONDUCT

1 In line with the changes introduced in the *Securities and Futures (Amendment) Act 2009* [“**SF(A)Act**”], MAS will be making amendments to the *Securities and Futures (Licensing and Conduct of Business) Regulations* [“**SF(LCB) Regulations**”]. The key amendments proposed are in relation to the following:

- (a) the Representative Notification Framework and Public Register;
- (b) the introduction of provisional representatives;
- (c) the introduction of a continuing capital markets services licensing regime;
- (d) the migration of certain business conduct requirements which are currently in Part VI of the SFA and provisions regarding the register of interest in securities currently in Part VII of the SFA; and
- (e) changes in licensing and business conduct requirements.

2 The proposed amendments to the relevant provisions of the SF(LCB) Regulations are at Annex 1.

3 To facilitate the transition to the proposed amendments to the SF(LCB) Regulations, MAS will be issuing the *Securities and Futures (Capital Markets Services Licence and Representatives) (Transitional and Savings Provisions) Regulations 2009*, attached at Annex 2.

4 MAS is also conducting a review of current licensing and business conduct requirements, and is proposing a separate set of amendments to the SF(LCB) Regulations. On 16 June 2009, MAS published the *Policy Consultation on Amendments to the Securities and Futures (Licensing and Conduct of Business) Regulations and Financial Advisers Regulations*. The consultation period closes on 15 July 2009. This set of proposed amendments is also reflected in the relevant provisions of the SF(LCB) Regulations at Annex 1.

5 In relation to the introduction of the Representative Notification Framework in the SFA, MAS will be:

- (a) making consequential amendments to the *Securities and Futures (Composition of Offences) Regulations*. The proposed amendment to the relevant provision is at Annex 3; and
- (b) repealing the *Securities and Futures (Exemption from Requirement to Hold Representative's Licence) Regulations*. In its place, MAS will enact the *Securities and Futures (Exemption from Requirement to be an Appointed, Provisional or Temporary Representative) Regulations 2009*, attached at Annex 4.

6 MAS will be making technical amendments to the *Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations* to remove or replace, where necessary, references to terms that will no longer be used. The proposed amendments to the relevant provisions are at Annex 5.

MARKETS AND CLEARING FACILITIES

7 MAS will make amendments to regulation 15 of the *Securities and Futures (Markets) Regulations* to streamline various ad hoc notification obligations for approved exchanges and recognised market operators. This is to ease administrative burden by consolidating some of these notification obligations into periodic reports. MAS will separately inform market operators of the details of these periodic reports. The proposed amendments to the relevant provisions are attached at Annex 6.

8 Consequential amendments will also be made to regulation 15 of the *Securities and Futures (Clearing Facility) Regulations* to reflect the changes relating to the position limit provision in the SF(A) Act. The proposed amendments to the relevant provisions are attached at Annex 7.

REGULATIONS PURSUANT TO THE FINANCIAL ADVISERS ACT (“FAA”)

9 MAS will be amending the regulations pursuant to the FAA to support the amendments in the *Financial Advisers (Amendment) Act 2009*. The amendments to the *Financial Advisers Regulations* [**“FA Regulations”**] are similar to amendments made to the SF(LCB) Regulations. They are in relation to the:

- (a) Representative Notification Framework and Public Register;
- (b) introduction of provisional representatives;
- (c) introduction of a continuing financial adviser’s licensing regime;
and
- (d) migration of certain business conduct requirements which are currently in the FAA, namely the grant of unsecured advances, loans or credit facilities to any employee of a licensed financial adviser, and the provisions regarding the register of interest in securities.

10 The proposed amendments to the relevant provisions of the FA Regulations are at Annex 8.

11 To facilitate the transition to the proposed amendments to the FA Regulations, MAS will be issuing the *Financial Advisers (Licensed Financial Advisers and Representatives) (Transitional and Savings Provisions) Regulations 2009*, attached at Annex 9.

12 MAS is also conducting a review of current licensing and business conduct requirements, and is proposing a separate set of amendments to the FA Regulations. On 16 June 2009, MAS published the *Policy Consultation on Amendments to the Securities and Futures (Licensing and Conduct of Business) Regulations and Financial Advisers Regulations*. The consultation period closes on 15 July 2009. This set of proposed amendments is also reflected in the relevant provisions of the FA Regulations at Annex 8.

13 Lastly, with the introduction of the Representative Notification Framework in the FAA, the *Financial Advisers (Exemption from Requirement to Hold Representative's Licence) Regulations 2004* will be repealed.

INVITATION FOR COMMENTS

14 MAS would like to invite comments on the following:

(a) The proposed amendments to regulations under the SFA attached at **Annexes 1 to 7**; and

(b) The proposed amendments to regulations under the FAA attached at **Annexes 8 and 9**.



Monetary Authority of Singapore