

FINANCIAL ADVISERS ACT
(CHAPTER 110, SECTION 94)

FINANCIAL ADVISERS (APPEALS) REGULATIONS

[9th December 2005]

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THE SCHEDULE
FORM 1

Citation

1. These Regulations may be cited as the Financial Advisers (Appeals) Regulations.

Definitions

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

"Appeal Advisory Committee" means an Appeal Advisory Committee constituted under section 91 of the Act;

"Appeal Advisory Panel" means the Appeal Advisory Panel appointed under section 92 of the Act;

"appellant" means any person who wishes to appeal under the Act to the Minister;

"decision" includes any action by or direction of the Authority appealed against;

"party" means the appellant or the Authority;

"secretary" means any person appointed as the secretary of the Appeal Advisory Panel under regulation 3 (1).

Secretary of Appeal Advisory Panel

3.—(1) The Minister may appoint one or more officers or employees of the Authority, either by name or by office, to be the secretary of the Appeal Advisory Panel.

(2) The secretary shall provide administrative and secretarial support to the Appeal Advisory Panel or any Appeal Advisory Committee in the performance of its functions.

(3) The secretary may attend any meeting or hearing of any Appeal Advisory Committee.

Members of Appeal Advisory Committee

4.—(1) Every Appeal Advisory Committee shall consist of —

- (a) a chairman; and
- (b) 2 or more other members,

as the Minister may appoint from the members of the Appeal Advisory Panel.

(2) The Minister may appoint an alternate chairman from among the members and, in the absence of the chairman, the alternate chairman shall have all the powers conferred on the chairman by these Regulations.

(3) A member of an Appeal Advisory Committee shall declare to the Minister the nature and extent of all conflicts of interest or potential conflicts of interest, if any, with his duties or interests as a member of that Committee, including those arising from —

- (a) his holding of any office;
- (b) his interest in any contract;
- (c) his possession or ownership of any property; or
- (d) any direct or indirect relationship to the appellant.

(4) Where the Minister is satisfied that the chairman, the alternate chairman or any other member of an Appeal Advisory Committee is unable to carry out his duties properly and effectively because of any conflict of interest or potential conflict of interest referred to in paragraph (3), the Minister may appoint another chairman or alternate chairman or replace that other member, as the case may be.

Meetings and hearings of Appeal Advisory Committee

5.—(1) The quorum of any meeting or hearing of an Appeal Advisory Committee shall be 2 persons, of whom one shall be the chairman or alternate chairman, and no meeting or hearing shall be proceeded with unless such a quorum is present.

(2) An issue before an Appeal Advisory Committee shall be decided by a majority of votes, and in the case of an equality of votes, the chairman of the meeting or hearing shall be entitled to a casting vote.

Procedure for appeals to Minister

6.—(1) An appellant shall appeal to the Minister by lodging with the secretary —

- (a) within the period stipulated in the relevant provision of the Act, a notice of appeal containing a brief description of the decision appealed against, in Form 1 in the Schedule; and
- (b) within 21 days from the date on which such notice of appeal is lodged, the following documents:

(i) a petition of appeal containing particulars of the decision appealed against, the issues arising in the appeal and the reasons for the appeal, in Form 2 in the Schedule; and

(ii) any supporting document referred to in the petition of appeal or relied on in support of the appeal.

(2) The Minister may, subject to such conditions as he may impose, accept any document referred to in sub-paragraph (a) or (b) of paragraph (1) which is lodged by the appellant after the expiration of the period specified in that sub-paragraph, if the Minister is satisfied that the appellant was unable to lodge that document within that period —

(a) due to the appellant's absence from Singapore or illness; or

(b) due to any other reason which is not caused by any unreasonable delay on the part of the appellant.

(3) The secretary shall, upon receipt of any document referred to in paragraph (1) (a) or (b), immediately forward that document to the Minister and a copy of that document to the Authority.

(4) When the Minister refers an appeal to an Appeal Advisory Committee, the secretary shall —

(a) notify the Authority and the appellant that an appeal against the decision of the Authority has been referred by the Minister to the Committee; and

(b) forward a copy of the notice of appeal and, as soon as it is available, a copy of each document referred to in paragraph (1) (b) to the Committee.

(5) Subject to regulation 12, the Authority shall, within 14 days from the date of receipt of the documents referred to in paragraph (1) (b) —

(a) provide the Appeal Advisory Committee with its reasons for the decision being appealed against, together with the supporting documents, if any, that it has relied on in making its decision; and

(b) cause a copy of its reasons and the supporting documents, if any, to be served on the appellant.

Submission of additional information or documents

7.—(1) Any party (referred to in this regulation as the first-mentioned party) intending to rely on any additional information or documents it has not furnished to the Appeal Advisory Committee or the other party (referred to in this regulation as the second-mentioned party) under regulation 6 shall forward copies of such information or documents to the secretary and the second-mentioned party not later than 21 days before the date of the hearing before the Committee.

(2) The second-mentioned party shall be entitled to furnish additional information or documents, in response to the additional information or documents furnished by the first-mentioned party, not later than 18 days before the date of the hearing.

(3) No further information or documents shall be furnished by either party in any other circumstances except with the prior consent of the Appeal Advisory Committee.

Appeal Advisory Committee to conduct hearing

8.—(1) The Appeal Advisory Committee shall conduct a hearing within 28 days from the date that it is constituted and shall give the Authority and the appellant (or his advocate and solicitor) a reasonable opportunity to appear before and be heard by the Committee.

(2) All parties shall notify the secretary, not later than 18 days before the date of the hearing, of the witnesses that they propose to call upon to give evidence before the Appeal Advisory Committee.

(3) Where a party fails to notify the secretary of a witness in accordance with paragraph (2), that witness shall not be called by that party except with the prior consent of the Appeal Advisory Committee.

(4) The Appeal Advisory Committee may, in its discretion, summon —

(a) all or any of the witnesses proposed by any party in accordance with paragraph (2); and

(b) any other witness,

to give evidence before the Committee or to produce any document or material.

(5) The secretary shall cause to be served, on any person who is to be summoned to appear before an Appeal Advisory Committee to give evidence or to produce any document or material, a written notice of the time and place at which the Committee shall sit —

(a) in the case of any witness that is summoned by the Committee under paragraph (4) (a), not less than 14 days before the date of the hearing; or

(b) in the case of any other witness that may be summoned by the Committee under paragraph (4) (b), as soon as practicable.

(6) Service of the notice referred to in paragraph (5) shall be effected in such manner as the secretary may generally or specifically determine.

(7) The secretary shall also cause to be served on the Authority and the appellant (or his advocate and solicitor) a copy of the notice referred to in paragraph (5).

(8) The Appeal Advisory Committee may proceed with a hearing in the absence of —

(a) either party (whether in person or by his or its duly authorised representative) if the Committee is satisfied that the absent party has been given notice of the hearing and has failed to appear; and

(b) any witness.

(9) The Authority and the appellant (or his advocate and solicitor) may examine the witnesses, and inspect any evidence adduced, before the Appeal Advisory Committee.

(10) The Appeal Advisory Committee may admit or reject any evidence adduced by any party or any witness, whether oral or documentary, and whether admissible or inadmissible under any written law for the time being in force relating to the admissibility of evidence.

(11) Any person who is summoned by an Appeal Advisory Committee under paragraph (4) and who intentionally omits to attend at the time and place specified in the written notice referred to in paragraph (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000.

Withdrawal of appeal

9. The appellant may at any time, before the Minister confirms, varies or reverses the decision of the Authority on appeal, withdraw his appeal by serving on the secretary a written notice to that effect.

Postponements

10.An Appeal Advisory Committee may postpone or adjourn any meeting or hearing of the Committee at any time.

Meeting and hearing not open to public

11.Every meeting and hearing of an Appeal Advisory Committee shall be held in private.

Submission of confidential information to Appeal Advisory Committee

12.—(1) Any information provided by the Authority to the Appeal Advisory Committee which is —

(a) by its nature confidential; or

(b) provided on a confidential basis,

shall be treated as confidential by the Committee and any other person having access to such information.

(2) The Appeal Advisory Committee shall be responsible for ensuring the confidentiality of any information referred to in paragraph (1) and shall not disclose such information without specific written permission from the Authority to do so.

(3) Where the Authority is of the view that it would not be in the public interest for any information referred to in paragraph (1) to be furnished to the appellant, the Authority shall cause to be furnished to the appellant and the Appeal Advisory Committee a non-confidential summary that is sufficient in detail to permit reasonable understanding of the substance of the confidential information by the appellant.

(4) Where the Authority is of the view that any information referred to in paragraph (1) is not susceptible of summary, it shall cause to be furnished to the appellant and the Appeal Advisory Committee a statement of reasons why this is so.

(5) The Appeal Advisory Committee may disregard any information referred to in paragraph (1) if —

(a) the Committee finds that there is no basis for treating the information as being confidential and the Authority nevertheless is unwilling to furnish the information to the appellant;

(b) the non-confidential summary as required under paragraph (3) is not in sufficient detail; or

(c) the reasons given for not providing a non-confidential summary under paragraph

(4) are inadequate and the Authority nevertheless refuses to provide a non-confidential summary.

Confidentiality

13.—(1) Subject to paragraph (2), no person shall, unless authorised by the Minister, disclose any information, document or evidence (whether oral or documentary) tendered or produced under these Regulations, or any part thereof, to any other person, except to the secretary, a member of the Appeal Advisory Committee, the Authority or the appellant (or his advocate and solicitor).

(2) Paragraph (1) shall not apply to the disclosure of any information, document or evidence, or any part thereof —

(a) by the person who tendered or produced such information, document or evidence; or

(b) which is in the public domain.

(3) Any person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both.

Non-compliance with Regulations

14.—(1) Any non-compliance by any party with any requirement in these Regulations shall not nullify the appeal or the response to the appeal.

(2) The Appeal Advisory Committee shall be entitled to take into account such non-compliance in its recommendations to the Minister.

Report of Appeal Advisory Committee

15.—(1) The Appeal Advisory Committee shall submit its report to the Minister within 14 days of the conclusion of the hearing, or such period as may be permitted by the Minister upon the request of the Committee made before the expiry of the period of 14 days.

(2) The report may state the recommendations of the Appeal Advisory Committee and the grounds upon which the Committee relied in making any recommendation.

(3) The report shall be kept secret and no person shall disclose the report or any part thereof to any other person other than the Minister, except where the Minister otherwise directs.

(4) Any person who contravenes paragraph (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 12 months or to both.

Exclusion from section 88 of Act

16.Section 88 of the Act shall not apply to any offence under regulation 8 (11), 13 (3) or 15 (4).

Dissolution of Appeal Advisory Committee

17.An Appeal Advisory Committee constituted in respect of an appeal shall dissolve upon the withdrawal of that appeal or upon the Minister confirming, varying or reversing the decision of the Authority on appeal.

THE SCHEDULE

Regulation 6 (1) (a)

FORM 1

FINANCIAL ADVISERS ACT (CHAPTER 110)

FINANCIAL ADVISERS (APPEALS) REGULATIONS

NOTICE OF APPEAL

Date of Service of Notice on Secretary:

Name of Appellant:

NRIC No./Company Registration No.*:

Address(es):

Telephone Number(s):

This appeal is made under section ____ of the Financial Advisers Act.

The appeal is against the Authority's decision of:

(state date and brief description of decision appealed against)

Signature of Appellant/

Advocate and Solicitor

acting for the Appellant*

* Delete whichever is inapplicable.

FORM 2

Regulation 6 (1) (b) (i)

FINANCIAL ADVISERS ACT (CHAPTER 110)

FINANCIAL ADVISERS (APPEALS) REGULATIONS

PETITION OF APPEAL

Date of Service of Petition on Secretary:

Name of Appellant:

NRIC No./Company Registration No.*:

Address(es):

Telephone Number(s):

This appeal is made under section ____ of the Financial Advisers Act.

The appeal is against the Authority's decision of:

(state date and brief description of decision appealed against, and any further circumstances out of which the appeal arises)

The issue/issues* arising in the appeal:

(state the issues)

The reason/reasons* for the appeal:

(state the substance of the decision appealed against and particulars of the grounds of appeal)

Signature of Appellant/

Advocate and Solicitor

acting for the Appellant*

* Delete whichever is inapplicable •

[G.N. No. S 791/2005]