

FINANCIAL ADVISERS (AMENDMENT) ACT 2009

(ACT 1 OF 2009)

FINANCIAL ADVISERS (REPRESENTATIVES) (TRANSITIONAL AND SAVINGS PROVISIONS) REGULATIONS 2010

- 1 Citation and commencement
- 2 Definitions
- 3 Pending applications
- 4 Return of licences to Authority
- 5 Licensed and exempt representatives deemed appointed representatives
- 6 Continuation and completion of proceedings
- 7 Previously exempt persons

In exercise of the powers conferred by section 42 of the Financial Advisers (Amendment) Act 2009, the Monetary Authority of Singapore hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Financial Advisers (Representatives) (Transitional and Savings Provisions) Regulations 2010 and shall come into operation on 26th November 2010.

Definitions

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

"Act" means the Financial Advisers Act (Cap. 110);

"exempt financial institution" means a financial institution exempt under section 23(1)(a), (b), (c), (d) or (e) of the Act from holding a financial adviser's licence to act as a financial adviser in Singapore in respect of any financial advisory service;

"licensed representative" means the holder of a representative's licence in force immediately before 26th November 2010;

"representative's licence" means a representative's licence as defined in section 2(1) of the Act in force immediately before 26th November 2010.

Pending applications

3.—(1) Unless otherwise notified in writing by the Authority, where —

(a) an individual has applied for the grant of a representative's licence under section 8 of the Act in force immediately before 26th November 2010; and

(b) the application is still pending on that date,

his principal shall be deemed to have lodged the documents referred to in section 23F(1) of the Act with the Authority to appoint him as an appointed representative in respect of the type of financial advisory service to be provided by the licence, and the Authority may accordingly enter or refuse to enter his name and other particulars in the public register of representatives as an appointed representative in respect of that type of financial advisory service in accordance with section 23F(2) or 23J of the Act.

(2) Paragraph (1) does not apply to an application for the grant of a representative's licence under section 8 of the Act in force immediately before 26th November 2010 if, before the Authority has taken any action referred to in that paragraph, the individual notifies the Authority of any error in or change to any of the following particulars as stated in the application:

- (a) his name;
- (b) his identification number such as NRIC or passport number or foreign identification number (FIN);
- (c) his date of birth;
- (d) his gender.

(3) Unless otherwise notified in writing by the Authority, where —

- (a) an individual is deemed as an appointed representative under regulation 5(1)(a);
- (b) he has applied to the Authority to vary his licence under section 16(1) of the Act in force immediately before 26th November 2010 to add a type of financial advisory service authorised to be provided by his licence; and
- (c) the application is still pending on that date,

his principal shall be deemed to have lodged a notice under section 23I(1) of the Act of its intention to appoint him as an appointed representative in respect of that type of financial advisory service, and the Authority may accordingly enter or refuse to enter in the public register of representatives that type of financial advisory service in addition to the financial advisory service indicated against his name in the public register of representatives, in accordance with section 23I(3) or 23J of the Act.

(4) The fee referred to in section 23H(1) of the Act is not payable for the deemed lodgment of documents under paragraph (1), and the fee referred to in section 23I(5) of the Act is not payable for the deemed notification under paragraph (3).

(5) The individual referred to in paragraph (1) or (3) shall by the time specified by the Authority pay to the Authority the applicable application fee set out in the Second Schedule to the Financial Advisers Regulations (Rg 2) in force immediately before 26th November 2010 if he has not already done so, and the Authority may refuse to take action under section 23F(2) or 23I(3) of the Act unless the fee is paid by the specified time.

(6) For the avoidance of doubt, sections 23F(4) and (5) and 23L of the Act shall not apply in relation to the deemed lodgment of documents under paragraph (1) or the deemed notification under paragraph (3).

Return of licences to Authority

4.—(1) Every licensed representative shall, no later than 14 days from 26th November 2010, return his licence to his principal.

(2) A principal shall, no later than one month from 26th November 2010 —

- (a) return to the Authority all licences returned under paragraph (1); and
- (b) furnish to the Authority a list of the names of the licensed representatives who have returned their licences.

(3) Any licensed representative who, without reasonable excuse, fails to comply with paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$12,500.

Licensed and exempt representatives deemed appointed representatives

5.—(1) An individual who —

(a) was a licensed representative —

(i) whose representative's licence was not under suspension immediately before 26th November 2010; and

(ii) who, immediately before 26th November 2010, was not subject to a prohibition order under section 59 of the Act in force immediately before that date; or

(b) was, immediately before 26th November 2010, a representative of an exempt financial institution —

(i) whose name and other particulars have been notified by the institution to the Authority by the date and in the form specified by the Authority;

(ii) who, immediately before 26th November 2010, was not subject to a prohibition order under section 59 of the Act in force immediately before that date; and

(iii) whose principal was, immediately before 26th November 2010, not subject to a prohibition order under section 59 of the Act in force immediately before that date,

shall, with effect from 26th November 2010, be deemed to be an appointed representative in respect of the type of financial advisory service for which he was licensed or in respect of which his principal was an exempt financial institution (as the case may be).

(2) A licensed representative whose licence was under suspension immediately before 26th November 2010 shall, at the end of the period of suspension or such further period as the Authority considers desirable, be deemed to be an appointed representative in respect of the type of financial advisory service for which he was licensed.

(3) An individual deemed to be an appointed representative under paragraph (1) or (2) shall have his particulars entered in the public register of representatives as an appointed representative on the date he is so deemed.

(4) In addition to the grounds set out in section 23J(1) of the Act, the Authority may take any action under that section against an individual referred to in paragraph (1)(a) who was a licensed representative by virtue of section 8(6) of the Act in force immediately before 26th November 2010, if—

(a) on the basis of information submitted in his application for renewal of his representative's licence or any other information or documents submitted in relation thereto, the Authority is not satisfied that he is a fit and proper person to be an appointed representative or to perform the type of financial advisory service for which he is deemed to be an appointed representative; or

(b) in a case where he did not pay to the Authority, at the time of the application, the fee for the renewal of his representative's licence set out in the Second Schedule to the Financial Advisers Regulations (Rg 2) in force immediately before 26th November 2010, he fails to pay that fee to the Authority by a time specified by it.

Continuation and completion of proceedings

6.—(1) Where, on 26th November 2010, any matter relating to any licensed representative was in the course of being heard or investigated by the Authority under section 19 of the Act in force immediately before that date, the Authority shall continue with the hearing or investigation as if that provision is still in force, and may make such order, ruling or direction as it could have made under the authority vested in it before that date.

- (2) If the licensed representative is one who is deemed to be an appointed representative under regulation 5, then —
- (a) a revocation of his licence by the Authority at the end of the hearing or investigation shall be treated as a revocation of his status as an appointed representative under section 23J of the Act; and
 - (b) a suspension of his licence for a specific period by the Authority at the end of the hearing or investigation shall be treated as a suspension of his status as an appointed representative for that period under section 23J of the Act.
- (3) Except in a case referred to in paragraph (1), the Authority may take action under section 23J of the Act against a licensed representative who is deemed to be an appointed representative under regulation 5, for anything occurring before 26th November 2010 that would have been a ground for it to take action under section 19(2) of the Act in force immediately before that date.

Previously exempt persons

7.—(1) This regulation applies to an individual who, immediately before 26th November 2010, was a person exempt under regulation 2 of the revoked Financial Advisers (Exemption from Requirement to Hold Representative's Licence) Regulations (Rg 5) (referred to in this regulation as the revoked Regulations) from the requirement to hold a representative's licence under section 7(1) of the Act in force immediately before that date by virtue of his having —

- (a) commenced to act as a representative of a licensed financial adviser on the business day immediately following the day on which he ceased to act as a representative of an exempt financial institution; and
 - (b) submitted an application for a representative's licence in accordance with section 8 of the Act in force immediately before that date.
- (2) The individual shall be exempt from section 23B(1) of the Act when acting as a representative for the licensed financial adviser until the date on which he is notified by the Authority that it has entered his name in the public register of representatives as an appointed representative or has refused to do so.

(3) The exemption is subject to the following conditions:

- (a) the types of financial advisory services which the individual may, in acting as a representative, provide for the licensed financial adviser shall only be those which —
 - (i) he had previously been providing as a representative of the exempt financial institution immediately before the revocation of the revoked Regulations; and
 - (ii) the licensed financial adviser is permitted to provide under its financial adviser's licence;
- (b) the types of investment products in respect of which the individual may, in acting as a representative, provide any type of financial advisory service for the licensed financial adviser shall only be those investment products —
 - (i) in respect of which he had previously been providing that type of financial advisory service when acting as a representative of the exempt financial institution immediately before the revocation of the revoked Regulations;
 - (ii) in respect of which the licensed financial adviser is permitted to provide that type of financial advisory service under its financial adviser's licence; and
- (c) the person shall, during the period of the exemption, comply with any requirement which is applicable to an appointed representative specified in —

(i) the Act; and

(ii) any written direction issued under the Act,

as if he were an appointed representative.

Made this 25th day of November 2010.

HENG SWEE KEAT

Managing Director,

Monetary Authority of Singapore.