

No. S 000 -

MONETARY AUTHORITY OF SINGAPORE ACT
(CHAPTER 186)

MONETARY AUTHORITY OF SINGAPORE (DISPUTE
RESOLUTION SCHEMES) REGULATIONS 2007

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The Schedules

In exercise of the powers conferred by section 28A(2) and (6) of the Monetary Authority of Singapore Act, the Monetary Authority of Singapore hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Monetary Authority of Singapore (Dispute Resolution Schemes) Regulations 2007 and shall come into operation on 22nd August 2007.

Definitions

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

“company” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

“complainant” means a consumer who refers a dispute to the operator of a scheme;

“corporation” has the same meaning as in section 4(1) of the Companies Act;

“financial year” has the same meaning as in section 4(1) of the Companies Act;

“membership fee” means the annual amount payable to the operator of a scheme by a member of the scheme for the purposes of funding the scheme;

“operator” means the company which administers a scheme;

“related corporation” has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

“scheme” means a dispute resolution scheme which is for the time being approved by the Authority under section 28A(1) of the Act;

“substantial shareholder” has the same meaning as in section 81 of the Companies Act;

“terms of reference” means the terms which define the scope, application, operations and procedures of a dispute resolution scheme.

Application for approval of dispute resolution scheme

3.—(1) An application for the approval of a dispute resolution scheme under section 28A(1) of the Act shall be made in writing to the Authority by the person who intends to administer the scheme as its operator.

(2) The application shall be accompanied by the terms of reference of the scheme.

(3) The applicant shall furnish to the Authority such information and documents as the Authority may require for the purpose of the application.

(4) The Authority may refuse the application if —

- (a) the applicant is not a company;
- (b) the applicant is a financial institution or an association of financial institutions;
- (c) the terms of reference do not comply with the requirements of regulation 6;
- (d) the applicant has not furnished the Authority with such information or documents as may be required under paragraph (3);
- (e) the applicant has furnished to the Authority any false or misleading information or document;
- (f) the Authority has reason to believe that the applicant —
 - (i) will not administer the scheme efficiently, honestly or fairly; or

- (ii) may not act in the interests of the members of the scheme or consumers; or
- (g) the Authority is of the opinion that it would be contrary to the public interest to approve the scheme.

Members of approved dispute resolution schemes

4.—(1) The list of dispute resolution schemes approved by the Authority under section 28A(1) of the Act is set out in the First Schedule.

(2) Every financial institution described in Part 1 of the Second Schedule shall be a member of at least one of the schemes specified in the First Schedule.

Cancellation or suspension of approval of scheme

5.—(1) The Authority may cancel the approval of a scheme if —

- (a) there exists a ground on which the Authority may refuse an application under regulation 3(4);
- (b) the operator of the scheme has contravened these Regulations or any condition imposed by the Authority when approving the scheme under section 28A(1) of the Act;
- (c) it appears to the Authority that the operator is administering the scheme in a manner that is, or is likely to be, detrimental to the members of the scheme or consumers, or is contrary to the public interest;
- (d) it appears to the Authority that the operator has not acted efficiently, honestly or fairly in the administration of the scheme;
- (e) the operator fails or ceases to administer the scheme; or
- (f) any information or document that is furnished by the operator to the Authority is false or misleading.

(2) The Authority may, if it considers it desirable to do so —

- (a) suspend the approval of a scheme for a specific period instead of cancelling it under paragraph (1); and
- (b) at any time extend or revoke the suspension.

Terms of reference of scheme

6.—(1) Subject to paragraph (2), an operator shall administer a scheme in accordance with its terms of reference which have been approved by the Authority at the time of its approval of the scheme under section 28A(1) of the Act.

(2) The operator shall not amend the terms of reference without the prior approval of the Authority.

(3) The operator shall publish the terms of reference, and any amendment to the terms, in such manner as the Authority may specify.

(4) The terms of reference shall include the following:

- (a) the types of disputes that may be referred by a complainant to the operator;
- (b) the procedure for referring a dispute to the operator;
- (c) the time period within which a dispute must be referred to the operator, which shall be no later than 6 months after attempts by the complainant and the relevant member of the scheme to resolve the dispute have failed;
- (d) the procedure for the receipt, processing and resolution of a dispute;
- (e) the fees payable by the complainant and the relevant member of the scheme in respect of each dispute of theirs referred to the operator;
- (f) the circumstances in which a dispute would be dismissed by the operator without referring the complainant and the relevant member of the scheme for mediation under the scheme;
- (g) the circumstances in which a dispute would be adjudicated under the scheme;
- (h) the types of awards that may be made by an adjudicator under the scheme; and
- (i) the procedure for the notification of the outcome of the adjudication of a dispute to the complainant and the relevant member of the scheme.

(5) The operator shall not amend any fee referred to in paragraph (4)(e) except —

- (a) on consultation with the members of the scheme; and
- (b) with the approval of the board of directors of the operator.

Estimates of income and expenditure of scheme

7.—(1) The operator of a scheme shall submit to the Authority no later than 2 months before the commencement of each financial year of the operator —

- (a) its annual estimates of income and expenditure of the scheme for that financial year; and

(b) the resolution of its board of directors approving the estimates.

(2) The operator may adopt the estimates submitted to the Authority if the Authority does not object to or seek any clarification on the estimates in writing within 14 days after the submission of the estimates.

(3) If the Authority seeks any clarification on the estimates within the period specified in paragraph (2) —

(a) the Authority may at any time thereafter seek such further clarifications on the estimates as the Authority may require or object to the estimates; and

(b) the operator shall only adopt the estimates if notified by the Authority that it does not object to the estimates.

(4) If the Authority objects to the estimates, the operator shall submit to the Authority new estimates within such time as may be specified by the Authority.

(5) The operator shall —

(a) where the Authority does not object to or seek any clarification on the estimates within the period specified in paragraph (2), within 4 weeks (or such longer period as the Authority may allow) after the expiry of that period; or

(b) in any other case, within 4 weeks (or such longer period as the Authority may allow) after the Authority notifies the operator that it does not object to the estimates,

determine (in accordance with the estimates adopted by the operator under this regulation in respect of a financial year), and notify the Authority of, the membership fee payable by each class of members of the scheme for that financial year.

(6) Paragraphs (2), (3), (4) and (5) shall apply to any new estimates submitted by the operator to the Authority —

(a) under paragraph (4); or

(b) in response to any clarification sought by the Authority under this regulation,

as if a reference to estimates in those paragraphs is a reference to the new estimates.

Amendment to memorandum and articles of association of operator

8. An operator shall not amend its memorandum and articles of association without the prior approval of the Authority.

Appointment of directors of operator

9.—(1) An operator shall not appoint a person as its director without the prior approval of the Authority.

(2) The board of directors of an operator shall consist of —

(a) a chairman, who shall be appointed by the board and who shall be an independent director; and

(b) not less than 3 but not more than 6 other directors, of whom at least half shall be independent directors.

(3) In this regulation, an independent director means a director who is not a substantial shareholder, officer or employee of —

(a) a financial institution; or

(b) a related corporation of a financial institution.

Annual report of board of directors of operator

10. The board of directors of an operator shall, within 5 months after the end of each financial year of the operator, cause to be made available to the public, in such manner as may be specified by the Authority, a report on the scheme administered by the operator during that financial year.

Obligation to submit periodic reports to Authority

11. An operator of a scheme shall submit to the Authority —

(a) within 6 weeks after the end of each quarter of a year, a report on the disputes referred to the operator under the scheme during that quarter; and

(b) within 14 days from any failure by a member of the scheme to comply with an award made against the member by an adjudicator under the scheme, a report on such failure.

Independent review of scheme

12.—(1) An operator of a scheme shall, at least once every 3 financial years, commission a review of its administration of the scheme by an independent party with the relevant expertise to conduct such a review.

(2) The operator shall ensure that all records and other information as may be required for the purpose of a review under paragraph (1) are retained for a period of not less than 5 years from the end of the financial year to which those records and other information relate.

(3) The operator shall consult the Authority on the terms of a review under paragraph (1).

(4) A review under paragraph (1) shall include a qualitative assessment of the operator's operations and procedures during the period under review.

(5) The Authority may at any time, if satisfied that it is in the interests of the operator, the members of the scheme or the public to do so, require the operator to commission any other review of the administration of the scheme by an independent party with the relevant expertise to conduct such a review, on such terms as may be specified by the Authority.

(6) The operator shall furnish the results of a review —

(a) under paragraph (1) or (5) to the Authority; and

(b) under paragraph (1) to the members of the scheme.

(7) The operator shall bear the costs and expenses of a review under paragraph (1) or (5).

FIRST SCHEDULE

Regulation 4(1)

APPROVED DISPUTE RESOLUTION SCHEMES

1. The dispute resolution scheme operated by the Financial Industry Disputes Resolution Centre Ltd.

SECOND SCHEDULE

Regulation 4(2)

PART I

FINANCIAL INSTITUTIONS

1. A bank licensed under the Banking Act (Cap. 19).
2. A finance company licensed under the Finance Companies Act (Cap. 108).
3. A person licensed under the Banking Act to carry on the business of issuing credit cards or charge cards in Singapore.
4. A direct insurer (other than a specialist insurer) registered under the Insurance Act (Cap. 142).
5. A direct insurance broker.
6. A person who is granted a capital markets services licence under the Securities and Futures Act (Cap. 289) in relation to one or more regulated activities except a person —

- (a) whose licence relates only to the regulated activity of advising on corporate finance; or
 - (b) who is required by a condition of the licence to only carry on the regulated activity or activities in relation to accredited investors, expert investors or institutional investors.
7. A person who is granted a financial adviser's licence under the Financial Advisers Act (Cap. 110) to provide financial advisory services except a person who is required by a condition of his licence to provide financial advisory services only to —
- (a) an individual whose total net personal assets exceeds \$2 million (or its equivalent in a foreign currency);
 - (b) an individual whose income in the preceding 12 months is not less than \$300,000 (or its equivalent in a foreign currency); or
 - (c) a corporation.

PART II

DEFINITIONS

In this Schedule, unless the context otherwise requires —

- “accredited investor” has the same meaning as in section 4A(1)(a) of the Securities and Futures Act (Cap. 289);
- “advising on corporate finance” has the same meaning as in the Second Schedule to the Securities and Futures Act;
- “direct insurance broker” has the same meaning as in section 1A of the Insurance Act (Cap. 142);
- “direct insurer” has the same meaning as in section 1A of the Insurance Act;
- “expert investor” has the same meaning as in section 4A(1)(b) of the Securities and Futures Act;
- “financial advisory service” has the same meaning as in section 2(1) of the Financial Advisers Act;
- “institutional investor” has the same meaning as in section 4A(1)(c) of the Securities and Futures Act;
- “regulated activity” has the same meaning as in section 2(1) of the Securities and Futures Act;
- “specialist insurer” means —
 - (a) any financial guarantee insurer as defined in regulation 2 of the Insurance (Financial Guarantee Insurance) Regulations (Cap. 142, Rg. 6);
 - (b) any credit and political risk insurer;
 - (c) any marine mutual insurer as defined in regulation 2 of the Insurance (General Provisions and Exemptions for Marine Mutual Insurers) Regulations 2007(G.N. No. S 746/2007);

[G.N No. 749/2007]

- (d) any captive insurer as defined in section 1A of the Insurance Act;
or
- (e) any insurer carrying on insurance business under any foreign insurer scheme established under section 35A of the Insurance Act (Cap. 142).

Made this day of 2007.

HENG SWEE KEAT
Managing Director,
Monetary Authority of
Singapore.

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