

No. S 501 -

SECURITIES AND FUTURES ACT
(CHAPTER 289)
SECURITIES AND FUTURES
(EXEMPTION FROM REQUIREMENT TO HOLD
CAPITAL MARKETS SERVICES LICENCE)
(AMENDMENT) REGULATIONS 2010

In exercise of the powers conferred by sections 99(1)(h) and 337(1) of the Securities and Futures Act, the Monetary Authority of Singapore hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Securities and Futures (Exemption from Requirement to Hold Capital Markets Services Licence) (Amendment) Regulations 2010 and shall come into operation on 7th September 2010.

Amendment of regulation 1A

2. Regulation 1A of the Securities and Futures (Exemption from Requirement to Hold Capital Markets Services Licence) Regulations (Rg 11) is amended —

- (a) by inserting, immediately before the definition of “financial institution”, the following definition:
 - “ “customer”, in relation to a person, does not include —
 - (a) for the purposes of regulation 2(3), the person, when carrying on business in dealing in securities for the person’s own account; and
 - (b) for the purposes of regulation 2(4) —
 - (i) the person, when carrying on business in trading in futures contracts for the person’s own account; or
 - (ii) a related corporation of the person, with respect to an account belonging to and maintained wholly for the benefit of that related corporation;”;
- (b) by inserting, immediately after the definition of “financial institution”, the following definitions:
 - “ “relevant offence” means —
 - (a) an offence, whether under the law of Singapore or elsewhere, involving fraud or dishonesty, or the conviction for which involved a finding that the offender had acted fraudulently or dishonestly;
 - (b) an offence under the Act or any regulations made under the Act; or
 - (c) an offence under the Banking Act (Cap. 19), the Commodity Trading Act (Cap. 48A), the Finance Companies Act (Cap. 108), the

Financial Advisers Act (Cap. 110), the Insurance Act (Cap. 142), the Monetary Authority of Singapore Act (Cap. 186), the Money-changing and Remittance Businesses Act (Cap. 187), the Penal Code (Cap. 224) or any subsidiary legislation made under any of those Acts;

“relevant regulator”, in relation to a jurisdiction other than Singapore, means the regulator in respect of dealing in securities or trading in futures contracts in that jurisdiction;”.

Amendment of regulation 2

3. Regulation 2 of the Securities and Futures (Exemption from Requirement to Hold Capital Markets Services Licence) Regulations is amended by inserting, immediately after paragraph (2), the following paragraphs:

“(3) A person which —

- (a) is incorporated outside Singapore;
- (b) is a member of any approved exchange or Singapore-incorporated recognised market operator operating a securities market;
- (c) does not serve any customer domiciled in Singapore;
- (d) does not carry on any business in Singapore;
- (e) carries on business in any jurisdiction the relevant regulator of which has an arrangement with the Authority for information exchange and co-operation in respect of securities; and
- (f) is registered, licensed, approved or otherwise regulated in respect of dealing in securities by the relevant regulator referred to in sub-paragraph (e),

shall, in respect of securities that are listed or quoted on the securities market operated by that approved exchange or Singapore-incorporated recognised market operator, be exempted from the requirement under section 82(1) of the Act to hold a capital markets services licence to carry on business in dealing in securities.

(4) A person which —

- (a) is incorporated outside Singapore;
- (b) is a member of any approved exchange or Singapore-incorporated recognised market operator operating a futures market;
- (c) does not serve any customer domiciled in Singapore;
- (d) does not carry on any business in Singapore;
- (e) carries on business in any jurisdiction the relevant regulator of which has an arrangement with the Authority for information exchange and co-operation in respect of futures contracts; and
- (f) is registered, licensed, approved or otherwise regulated in respect of trading in futures contracts by the relevant regulator referred to in sub-paragraph (e),

shall, in respect of futures contracts that are traded on the futures market operated by that approved exchange or Singapore-incorporated recognised market operator, be exempted from the requirement under section 82(1) of the Act to hold a capital markets services licence to carry on business in trading in futures contracts.

(5) A person which would otherwise be, or which is, exempted under paragraph (3) or (4) (referred to in this paragraph as the exempt person) shall not be, or shall cease to be, so exempted if —

- (a) the exempt person carries on business in dealing in securities other than in accordance with paragraph (3), or carries on business in trading in futures contracts other than in accordance with paragraph (4), as the case may be;
- (b) the exempt person is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
- (c) execution against the exempt person in respect of a judgment debt has been returned unsatisfied in whole or in part;
- (d) a receiver, a receiver and manager, a judicial manager, or any other person having the powers and duties of a receiver, receiver and manager or judicial manager, has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the exempt person;
- (e) the exempt person has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with its creditors, being a compromise or scheme of arrangement that is still in operation;
- (f) the exempt person has been convicted of a relevant offence;
- (g) the exempt person is not a fit and proper person in relation to the conduct of the regulated activity for which it is exempted, or any substantial shareholder or equivalent person of the exempt person is not a fit and proper person to be in such capacity; or
- (h) any person who, acting alone or together with any other person —
 - (i) controls, directly or indirectly, not less than 20% of the voting power or equivalent decision-making power in the exempt person; or
 - (ii) acquires or holds, directly or indirectly, not less than 20% of the issued shares or equivalent share of ownership of the exempt person,
 is not a fit and proper person to control such percentage of power or hold such percentage of shares or share of ownership.

(6) Where the person referred to in paragraph (3) or (4) is a branch of an entity, and the head office of the entity and the branch carry on business in different jurisdictions, the relevant regulator referred to in paragraph (3)(e) and (f) or (4)(e) and (f), as the case may be, is the relevant regulator of the jurisdiction in which the branch carries on business.”.

[G.N. No. S 147/2008]

Made this 6th day of September 2010.

HENG SWEE KEAT
Managing Director,
Monetary Authority of Singapore.

[CMI CMS 010/2007; AG/LLRD/SL/289/2010/9 Vol. 1]