

No. S 712

**SECURITIES AND FUTURES (AMENDMENT) ACT 2009
(ACT 2 OF 2009)**

**SECURITIES AND FUTURES (REPRESENTATIVES)
(TRANSITIONAL AND SAVINGS PROVISIONS)
REGULATIONS 2010**

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation and commencement
2. Definitions
3. Pending applications
4. Return of licences to Authority
5. Certain representatives deemed appointed or temporary representatives
6. Continuation and completion of proceedings
7. Power to make prohibition orders against other persons

In exercise of the powers conferred by section 120 of the Securities and Futures (Amendment) Act 2009, the Monetary Authority of Singapore hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Securities and Futures (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 Securities and Futures Act (Cap. 289);

“exempt financial institution” means a financial institution exempt under section 99(1)(a), (b), (c) or (d) of the Act from the requirement to hold a capital markets services licence to carry out any regulated activity;

“exempt representative”, in relation to an exempt financial institution, means a representative carrying out any regulated activity under the Act on behalf of the exempt financial institution, being a type of regulated activity for which the institution is an exempt financial institution;

“licensed representative” means the holder of a licence granted under section 87 of the Act in force immediately before 26th

November 2010, which was in force immediately before that date;

“licensed temporary representative” means the holder of a licence granted under section 87A of the Act in force immediately before 26th November 2010, which was in force immediately before that date.

Pending applications

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

(a) an individual has applied for the grant of a licence under section 87 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 99H(1) of the Act with the Authority to appoint him as an appointed representative in respect of the type of regulated activity 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 regulated activity in accordance with section 99H(2) or 99M of the Act.

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

(a) an individual has applied for the grant of a licence under section 87A 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 99H(1) of the Act with the Authority to appoint him as a temporary representative in respect of the type of regulated activity 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 a temporary representative in respect of that type of regulated activity in accordance with section 99H(2) or 99M of the Act.

(3) Paragraph (1) or (2) does not apply to any application 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.

(4) 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 under section 90(1) of the Act in force immediately before 26th November 2010 to add a regulated activity to that already specified in his licence; and
- (c) the application is still pending on that date,

his principal shall be deemed to have lodged a notice under section 99L(1) of the Act of its intention to appoint him as an appointed representative in respect of that type of regulated activity, and the Authority may accordingly enter or refuse to enter in the public register of representatives that type of regulated activity in addition to the regulated activity indicated against his name in the public register of representatives, in accordance with section 99L(3) or 99M of the Act.

(5) The fee referred to in section 99K(1) of the Act is not payable for the deemed lodgment of documents under paragraph (1) or (2), and the fee referred to in section 99L(5) of the Act is not payable for the deemed notification under paragraph (4).

(6) The individual referred to in paragraph (1), (2) or (4) shall by the time specified by the Authority pay to the Authority the applicable application fee specified in regulation 6 of the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg 10) in force immediately before 26th November 2010 if he has not already done so, and the Authority may refuse to take action under section 99H(2) or 99L(3) of the Act unless the fee is paid by the specified time.

(7) For the avoidance of doubt, sections 99H(4) and (5) and 99O of the Act shall not apply in relation to the deemed lodgment of documents under paragraph (1) or (2) or the deemed notification under paragraph (4).

Return of licences to Authority

4.—(1) Every licensed representative and licensed temporary 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 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 \$25,000.

Certain representatives deemed appointed or temporary representatives

5.—(1) An individual —

- (a) who was a licensed representative —
 - (i) whose representative's licence was not under suspension immediately before 26th November 2010; and
 - (ii) who, immediately before that date, was not subject to a prohibition order under section 95(6) of the Act in force immediately before that date;
- (b) whose application for the renewal of a licence under section 87 of the Act in force immediately before 26th November 2010 is still pending on that date; or
- (c) who was, immediately before 26th November 2010, an exempt representative of an exempt financial institution 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,

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

(2) An individual who was a licensed temporary representative whose licence was not under suspension immediately before 26th November 2010 shall, with effect from that date, be deemed to be a temporary representative in respect of the type of regulated activity for which he was licensed.

(3) A licensed representative or licensed temporary 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 or a temporary representative (as

the case may be) in respect of the regulated activity for which he was licensed.

(4) An individual who is deemed a temporary representative under paragraph (2) or (3) shall be a temporary representative for such period of time as the Authority may specify against his name in the public register of representatives.

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

(6) In addition to the grounds set out in section 99M(1) of the Act, the Authority may take any action under that section against an individual referred to in paragraph (1)(b) if —

(a) on the basis of information submitted in the application referred to in paragraph (1)(b) 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 carry out the type of regulated activity 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 regulation 6 of the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg 10) in force immediately before 26th November 2010, he fails to pay that fee to the Authority by the time specified by it.

(7) For the avoidance of doubt, where —

(a) an individual is deemed to be a temporary representative under paragraph (2) or (3); and

(b) he is proposed to be appointed a temporary representative at any time after the expiry of the period referred to in paragraph (4),

then the period of his licence granted under section 87A of the Act in force immediately before 26th November 2010 shall not, for the purpose of section 99M(1)(s)(iii) of the Act, count towards the period of any past appointment of that individual referred to in that provision.

Continuation and completion of proceedings

6.—(1) Where, on 26th November 2010, any matter relating to any licensed representative or licensed temporary representative was in the course of being heard or investigated by the Authority under section 95 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 representative is one who is deemed to be an appointed representative or a temporary 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 or a temporary representative under section 99M 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 or a temporary representative for that period under section 99M of the Act.

(3) Except in a case referred to in paragraph (1), the Authority may take action under section 99M of the Act against a licensed representative or licensed temporary representative who is deemed to be an appointed representative or a temporary representative (as the case may be) under regulation 5, for anything occurring before 26th November 2010 that would have been a ground for it to take action under section 95(2) of the Act in force immediately before that date.

Power to make prohibition orders against other persons

7. The following are also treated as relevant persons for the purposes of section 101A of the Act:

- (a) a person who was the holder of a licence granted under section 87 of the Act in force immediately before 26th November 2010 but who has ceased to be one at any time before that date;
- (b) a person who was a representative of an exempt financial institution immediately before 26th November 2010 but who has ceased to be one at any time before that date;
- (c) a person convicted of an offence under section 83(3) of the Act in force immediately before 26th November 2010.

Made this 25th day of November 2010

HENG SWEE KEAT
Managing Director,
Monetary Authority of Singapore.

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