

**No. S 677 –**

**SECURITIES AND FUTURES ACT  
(CHAPTER 289)**

**SECURITIES AND FUTURES  
(FINANCIAL AND MARGIN REQUIREMENTS FOR  
HOLDERS OF CAPITAL MARKETS SERVICES LICENCES)  
(AMENDMENT NO. 3) REGULATIONS 2006**

In exercise of the powers conferred by sections 86(3), 100 and 341 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 (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment No. 3) Regulations 2006 and shall come into operation on 20th December 2006.

**Amendment of regulation 7**

2. Regulation 7 of the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations (Rg 13) (referred to in these Regulations as the principal Regulations) is amended —

(a) by inserting, immediately after paragraph (4), the following paragraph:

“(4A) Where an approved exchange or designated clearing house informs the Authority that the holder of a licence has failed to comply with any direction given to it under paragraph (3), the Authority may, if it thinks necessary or expedient, direct the holder of the licence to comply with that direction, within such time as may be specified by the Authority and subject to such modifications that the Authority may make to the direction.”; and

(b) by deleting the words “paragraph (3) or (4)(b)” in paragraph (6) and substituting the words “paragraph (3), (4)(b) or (4A)”.

**Amendment of regulation 17**

3. Regulation 17 of the principal Regulations is amended —

(a) by inserting, immediately after paragraph (3), the following paragraph:

“(3A) Where an approved exchange or designated clearing house informs the Authority that the holder of a licence has failed to comply with any direction given to it under paragraph (2), the Authority may, if it thinks necessary or expedient, direct the holder of the licence to comply with that direction, within such time as may be specified by the Authority and subject to such modifications that the Authority may make to the direction.”; and

- (b) by deleting the words “paragraph (2) or (3)(b)” in paragraph (5) and substituting the words “paragraph (2), (3)(b) or (3A)”.

#### **Amendment of regulation 21**

4. Regulation 21(2) of the principal Regulations is amended —

- (a) by inserting, immediately after the words “preference share”, the words “that is computed as part of the holder’s financial resources under paragraph 1(1) of the Second Schedule”; and
- (b) by deleting the words “one year” in sub-paragraph (a) and substituting the words “3 months”.

#### **Amendment of regulation 25**

5. Regulation 25 of the principal Regulations is amended —

- (a) by deleting paragraphs (1) and (2) and substituting the following paragraphs:

“(1) The holder of a licence under regulation 5 shall immediately notify the Authority, and the approved exchange or designated clearing house of which the holder is a member (as the case may be), when any account which the holder is carrying for any customer is under-margined by an amount which exceeds the aggregate resources of the holder.

(2) The holder of a licence under regulation 8(1) shall immediately notify the Authority when any account which the holder is carrying for any customer is under-margined by an amount which exceeds the adjusted net capital of the holder.”;

- (b) by deleting paragraph (4) and substituting the following paragraph:

“(4) Where the holder of a licence which is a member of an approved exchange or a designated clearing house has, within one business day, failed to meet a margin

call or to make other deposits as required by the approved exchange or designated clearing house (as the case may be), the approved exchange or designated clearing house shall immediately —

- (a) inform the Authority of such failure by the member; and
- (b) inform the Authority as to whether any action has been taken, and if so, the action taken, by the approved exchange or designated clearing house (as the case may be) in respect of such failure by the member.”;
- (c) by deleting the words “futures exchange or clearing house” wherever they appear in paragraph (5) and substituting in each case the words “approved exchange or designated clearing house”; and
- (d) by deleting the words “to trade in futures contracts or carry out leveraged foreign exchange trading” in the regulation heading.

#### **New Part VIIIA**

6. The principal Regulations are amended by inserting, immediately after regulation 28, the following Part:

#### “PART VIIIA

#### MISCELLANEOUS

#### **Offences**

**28A.** Any person who contravenes —

- (a) regulation 4(1) or (2), 6(1) or (3), 7(1), (3) or (5)(a), 9(1) or (2), 10(1) or (3)(a), 11(1), (2) or (4)(a), 13(1) or (2), 14(1), 16(1) or (2), 17(1), (2) or (4)(a), 19(1), 20, 21(1) or (2), 22(1) or (2), 23, 24(1), (2) or (3), 25(1), (2) or (4), 26(2) or (3); or
- (b) any direction issued by the Authority under regulation 4(3)(a), 7(4)(b) or (4A), 10(2)(a), 11(3)(a), 14(2)(a) or 17(3)(b) or (3A),

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.”.

#### **Deletion of Part IX**

7. Part IX of the principal Regulations is deleted.

## Amendment of Second Schedule

8. The Second Schedule to the principal Regulations is amended —

(a) by deleting paragraph (b) of the definition of “qualifying deposit” in paragraph 1(4) and substituting the following paragraph:

“(b) a deposit with any of the following:

- (i) an approved exchange;
- (ii) a recognised group A exchange;
- (iii) a designated clearing house;
- (iv) a clearing facility appointed by a recognised group A exchange;
- (v) an entity which is a member of any entity referred to in sub-paragraphs (i) to (iv); or
- (vi) such other entity as the Authority may specify in a guideline issued by the Authority;”;

(b) by deleting the words “(in addition to any other condition or restriction that the Authority, or a securities exchange, futures exchange or clearing house of which the holder is a member, may impose)” in paragraph 4(1);

(c) by deleting the words “specified by a securities exchange, futures exchange or clearing house of which the holder is a member (if applicable), or in a form that includes the following” in paragraph 4(1)(b) and substituting the words “that includes the following terms and conditions”;

(d) by deleting the word “and” at the end of paragraph 4(1)(b)(v);

(e) by inserting, at the end of sub-paragraph (vi) of paragraph 4(1)(b), the word “and”, and by inserting immediately thereafter the following sub-paragraph:

“(vii) such terms and conditions as may be specified in the business rules of an approved exchange or a designated clearing house of which the holder is a member;”;

(f) by deleting the word “and” at the end of paragraph 4(1)(c); and

(g) by deleting the full-stop at the end of sub-paragraph (d) of paragraph 4(1) and substituting the word “; and”, and by inserting immediately thereafter the following sub-paragraph:

“(e) the subordinated loan agreement is subject to such other condition or restriction that may be imposed on the

holder by the Authority, or by an approved exchange or a designated clearing house of which the holder is a member.”.

### **Amendment of Third Schedule**

9. The Third Schedule to the principal Regulations is amended —

(a) by deleting sub-paragraph (37) of paragraph 3 and substituting the following sub-paragraph:

“(37) In this paragraph, the values attributable to the assets deposited by a counterparty to satisfy maintenance margin requirements of a futures exchange, a designated clearing house, an overseas futures exchange, or a clearing facility appointed by an overseas futures exchange shall be determined in accordance with the relevant business rules of that futures exchange, designated clearing house, overseas futures exchange or clearing facility appointed by an overseas futures exchange (as the case may be).”;

(b) by deleting the definition of “maintenance margin” in paragraph 3(38) and substituting the following definition:

““maintenance margin” means the amount of maintenance margin prescribed by the futures exchange, designated clearing house, overseas futures exchange, or clearing facility appointed by an overseas futures exchange;”;

(c) by deleting the words “a securities exchange” in paragraphs 3(49)(a) and 5(4)(l)(iii) and substituting in each case the words “an approved exchange”;

(d) by deleting the sub-paragraph (b) of paragraph 3(49);

(e) by deleting sub-paragraph (b) of paragraph 4(7) and substituting the following sub-paragraph:

“(b) until otherwise directed by the Authority, calculate an appropriate position risk requirement for the position, which shall be either —

- (i) 100% of the current market value of the position; or
- (ii) a percentage of the current market value of the non-standard instrument or a method of computation as the Authority may allow.”;

(f) by deleting sub-paragraph (d) of paragraph 4(13) and substituting the following sub-paragraph:

“(d) such other equity derivatives as may be specified —

- (i) by the Authority in its guideline; or
- (ii) by an approved exchange or a designated clearing house from time to time.”;

- (g) by deleting sub-paragraph (28) of paragraph 4 and substituting the following sub-paragraph:

“(28) The holder may use the equity margin method to calculate an equity derivative position risk requirement for a position in an equity derivative traded on any approved exchange, overseas securities exchange or overseas futures exchange and that is subject to a positive margin requirement prescribed by the approved exchange, designated clearing house, overseas securities exchange, clearing facility appointed by the overseas securities exchange, overseas futures exchange, or clearing facility appointed by the overseas futures exchange.”;

- (h) by deleting sub-paragraph (a) of paragraph 4(29) and substituting the following sub-paragraph:

“(a) in the case of an equity derivative traded on an approved exchange, or a recognised group A exchange, as 2 times the margin prescribed by the approved exchange, designated clearing house, recognised group A exchange, or a clearing facility appointed by the recognised group A exchange; and”;

- (i) by deleting the words “or the securities exchange, futures exchange or clearing house (as the case may be)” in paragraph 4(52);

- (j) by deleting sub-paragraph (58) of paragraph 4 and substituting the following sub-paragraph:

“(58) The holder may use the debt margin method to calculate a debt derivative position risk requirement for a position in a debt derivative traded on any approved exchange, designated clearing house, recognised group A exchange, recognised group B exchange, clearing facility appointed by a recognised group A exchange, or clearing facility appointed by a recognised group B exchange and that is subject to a positive margin requirement prescribed by the approved exchange, designated clearing house, recognised group A exchange, recognised group B exchange, clearing facility appointed by the recognised group A exchange, or clearing facility appointed by the recognised group B exchange (as the case may be).”;

- (k) by deleting sub-paragraph (a) of paragraph 4(59) and substituting the following sub-paragraph:

“(a) in the case of a debt derivative traded on an approved exchange or a recognised group A exchange, as 2 times the margin prescribed by the approved exchange, a designated clearing house, the recognised group A exchange, or a clearing facility appointed by the recognised group A exchange (as the case may be); and”;

- (l) by deleting sub-paragraph (iv) of paragraph 5(4)(l); and

(m) by deleting sub-paragraph (viii) of paragraph 5(4)(I) and substituting the following sub-paragraph:

“(viii) an entity which is a member of any entity referred to in sub-paragraphs (iii) to (vii).”.

#### **Amendment of Fourth Schedule**

**10.** The Fourth Schedule to the principal Regulations is amended —

- (a) by deleting the words “A securities exchange, futures exchange or clearing house” in item (5) in Table 1 and substituting the words “An approved exchange or a designated clearing house”;
- (b) by deleting the words “clearing house designated by” in items (9) and (11) in Table 1 and substituting the words “clearing facility appointed by”; and
- (c) by deleting sub-paragraph (iv) of item (6)(a) in Table 5 and substituting the following sub-paragraph:

“(iv) any other index as the Authority may permit in a guideline issued by the Authority.”.

#### **Miscellaneous amendments**

**11.** The principal Regulations are amended —

- (a) by deleting the words “recognised trading system provider” wherever they appear in the definitions of “futures contract”, “open purchase contract” and “open sale contract” in regulation 2 and substituting in each case the words “recognised market operator”;
- (b) by deleting the words “the securities exchange, futures exchange or clearing house” wherever they appear in the following provisions and substituting in each case the words “the approved exchange or designated clearing house”:
  - (i) Regulations 4(2)(b), 6(3)(b), 7(1), (3) and (5)(b), 16(2)(b), 17(1), (2) and (4)(b), 21(1) and (2)(a) and (d), 22(1) and (2)(a)(i) and (b)(i) and (v) and 23;
  - (ii) Second Schedule — paragraphs 1(4) (paragraph (i) of the definition of “illiquidity adjustment”) and 3(1);
  - (iii) Third Schedule — paragraphs 2(1)(c), 3(10) and 4(7)(a) and (67)(b);

- (c) by deleting the words “*securities exchange, futures exchange or clearing house*” in the headings of Division 1 and 2 in Part III and substituting in each case the words “*approved exchange or designated clearing house*”;
- (d) by deleting the words “clearing house” wherever they appear in the following provisions and substituting in each case the words “designated clearing house”:
  - (i) Regulations 5(c), 8(1)(a) and (b) and 19(1) and regulation heading;
  - (ii) First Schedule — items (1)(a) and (2)(a) in the table; and
  - (iii) Third Schedule — paragraphs 2(2)(a), 3(23), (29)(a) and (b) and (49)(d) and 5(4)(l)(v);
- (e) by deleting the words “securities exchange, futures exchange or clearing house” in the headings of regulations 6 and 7 and substituting in each case the words “approved exchange or designated clearing house”;
- (f) by deleting the words “a securities exchange, futures exchange or clearing house” in the following provisions and substituting in each case the words “an approved exchange or a designated clearing house”:
  - (i) Regulations 7(3) and (4)(a), 17(2) and (3)(a) and 23;
  - (ii) Second Schedule — paragraphs 1(3) and (4) (paragraph (k)(ii) of the definition of “illiquidity adjustment”) and 3(2); and
  - (iii) Third Schedule — paragraphs 1(2) (paragraph (e) of the definition of “acceptable collateral”), 4(9)(c), (38)(c), (80) and (82) and 5(1) (paragraph (i) of the definition of “excluded issuer exposure”) and (4)(k) and (l);
- (g) by deleting the words “securities exchange or futures exchange” in regulations 13(2)(b) and 14(1) and substituting in each case the words “approved exchange”;
- (h) by deleting the words “a securities exchange, futures exchange, or clearing house” in paragraph 1(2) of the Second Schedule and substituting the words “an approved exchange or a designated clearing house”;
- (i) by deleting the words “the securities exchange, futures exchange, or clearing house” in paragraph 3(2) of the Second Schedule and substituting the words “the approved exchange or designated clearing house”;

- (j) by deleting the words “a securities exchange or a futures exchange or both” in paragraph 2(2)(a) of the Third Schedule and substituting the words “an approved exchange”; and
- (k) by deleting the words “clearing house designated by” in paragraphs 3(49)(e), 4(29)(b) and (59)(b) and 5(4)(l)(vii) of the Third Schedule and substituting in each case the words “clearing facility appointed by”.

*[G.N. Nos. S 372/2005; S 78/2006; S 507/2006]*

Made this 18th day of December 2006.

HENG SWEE KEAT  
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