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5

Financial Advisers (Amendment) Bill

Bill No. /2008.

Read the first time on 2008.

A BILL

intituled

An Act to amend the Financial Advisers Act (Chapter 110 of the 2007 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Financial Advisers (Amendment) Act 2008 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 **Amendment of section 2**

2. Section 2(1) of the Financial Advisers Act (referred to in this Act as the principal Act) is amended —

(a) by inserting, immediately after the definition of “advocate and solicitor”, the following definition:

10 ““appointed representative” means a representative who qualifies as a representative under section 23C and, unless it is otherwise stated, shall include a provisional representative;”;

(b) by deleting the words “or renewed” in the definition of “financial adviser’s licence”;

15 (c) by inserting, immediately after the definition of “financial advisory service”, the following definition:

20 ““financial journalist” means a person who contributes advice concerning securities, or prepares analyses or reports concerning securities, for publication in a newspaper, but does not include such person or a person belonging to such class of persons as may be prescribed;”;

25 (d) by inserting, immediately after the word “prescribe” in paragraph (b) of the definition of “futures contract”, the words “as a futures contract”;

(e) by inserting, at the end of the definition of “futures contract”, the words “but does not include such contract or class of contract that would otherwise fall within paragraph (a) as the Authority may prescribe as not being a futures contract”;

30 (f) by deleting the definition of “licence”;

(g) by inserting, immediately after the definition of “prescribed written law”, the following definitions:

““principal” in relation to an individual who is or intends to be an appointed representative, means a holder of a financial adviser’s licence or a person exempt under section 23(1)(a), (b), (c), (d) or (e), whom that individual is or intends to be in the direct employment of, acting for or by arrangement with, and for whom he provides any financial advisory service;

“provisional representative” means a representative who qualifies as a representative under section 23C(12);

“public register of representatives” means the record of representatives that the Authority publishes under section 63A;”;

- (h) by inserting, immediately after the definition of “recognised market operator”, the following definition:

““record” means information that is inscribed, stored or otherwise fixed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;”;

- (i) by deleting the definition of “representative” and substituting the following definition:

““representative” means a person, by whatever name called, in the direct employment of, or acting for, or by arrangement with, a financial adviser, who performs for the financial adviser any of the functions of a financial adviser (other than work ordinarily performed by accountants, clerks or cashiers), whether or not he is remunerated, and whether his remuneration, if any, is by way of salary, wages, commission or otherwise; and includes any officer of the financial adviser who performs for the financial adviser any of those functions whether or not he is remunerated, and whether his remuneration, if any, is by way of salary, wages, commission or otherwise;”;

- (j) by deleting the definition of “representative’s licence”; and

- (k) by deleting the words “Division 4 of Part IV of the Companies Act” in the definition of “substantial shareholder” and substituting the words “section 2(1) of the Securities Futures Act”.

Amendment of Part II

3. Part II of the principal Act is amended —

- (a) by deleting the Part heading and substituting the following words
“FINANCIAL ADVISERS AND REPRESENTATIVES”; and
- 5 (b) by inserting, immediately after the Part heading, the following
Division heading:
“Division 1 – Financial adviser’s licence”.

Repeal of section 7

4. Section 7 of the principal Act is repealed.

Amendment of section 8

5. Section 8 of the principal Act is amended —

- (a) by deleting the words “or renewal of licence” in the section
heading and substituting the words “of financial adviser’s
licence”;
- 15 (b) by deleting subsection (1) and substituting the following
subsection:
“(1) An application for the grant of a financial adviser’s
licence shall be —
 - (a) made to the Authority in such form and manner as
20 may be prescribed; and
 - (b) accompanied by a non-refundable application fee of
a prescribed amount, which shall be paid in the manner
specified by the Authority.”; and
- (c) by deleting subsections (3), (3A), (4), (5), (6) and (7).

Amendment of section 9

6. Section 9 of the principal Act is amended by deleting the words “or
renewal” wherever they appear in the following provisions:

- (a) section heading;
- (b) subsection (1);
- 30 (c) subsection (3); and

(d) subsection (4).

Repeal of section 11

7. Section 11 of the principal Act is repealed.

Amendment of section 12

5 8. Section 12 of the principal Act is amended -

- (a) by deleting the word “licensed” wherever it appears in subsection (1) and (3) and substituting the word “appointed”; and
- (b) by deleting the words “A licensed” in subsection (2) and substituting the words “An appointed”.

Amendment of section 13

10 9. Section 13 of the principal Act is amended —

- (a) by deleting the words “or renewal of licence” in the section heading and substituting the words “of financial adviser’s licence”;
- 15 (b) by deleting the words “or renew any licence” in subsection (1) and substituting the words “any financial adviser’s licence”;
- (c) by deleting subsection (2) and substituting the following subsection:
 - 20 “(2) Without prejudice to the generality of subsection (1), the Authority may, in granting any financial adviser’s licence, impose conditions or restrictions with respect to the type of financial advisory service which may or may not be provided by the licensed financial adviser, described in such manner as the Authority may consider appropriate.”;
- 25 (d) by deleting the word “licence” under subsection (3) and substituting the words “financial adviser’s licence”; and
- (e) by deleting subsection (5).

Amendment of section 14

10. Section 14 of the principal Act is amended —

- (a) by deleting the word “licensee” wherever it appears in subsection (1) and paragraph (c) of subsection (2) and substituting the words “licensed financial adviser”; and
- (b) by deleting paragraph (b) of subsection (2).

5 **Repeal of section 15**

11. Section 15 of the principal Act is repealed.

Amendment of section 16

12. Section 16 of the principal Act is amended—

- 10 (a) by inserting, immediately after the word “of” in the section heading, the words “financial adviser’s”;
- (b) by deleting subsection (1) and substituting the following subsection:
 - “(1) A licensed financial adviser may apply to the Authority, in such form and manner as may be prescribed, to vary its licence –
 - 15 (a) by adding one or more types of financial advisory service authorised to be provided by its licence; or
 - (b) by adding one or more types of investment product in respect of which it provides any financial advisory service.”;
- 20 (c) by deleting subsection (2) and substituting the following subsection:
 - “(2) An application under subsection (1) shall be accompanied by a non-refundable application fee of such amount as may be prescribed, which shall be paid in the manner specified by the Authority.”;
- 25 (d) by deleting subsection (2A); and
- (e) by deleting the words “or 11(1)” in subsection (3).

Amendment of section 17

13. Section 17 of the principal Act is amended –

- 30 (a) by deleting the words “, renewal or variation of licence” in the section heading and substituting the words “or variation of financial adviser’s licence”; and

- (b) by deleting the words “, renewal or variation of a licence” in the section heading and substituting the words “or variation of a financial adviser’s licence”.

Amendment of section 18

5 **14.** Section 18 of the principal Act is amended —

- (a) by deleting the word “,etc.” in the section heading and substituting the words “of a licensed financial adviser”;
- (b) by deleting the words “register of licensees” in subsection (1)(b) and substituting the words “record of licensed financial advisers”;
- 10 (c) by deleting subsection (2); and
- (d) by deleting the words “or a licensed representative, as the case may be,” in subsection (3).

Repeal and re-enactment of section 19

15 **15.** Section 19 of the principal Act is repealed and the following section substituted therefore:

“Lapsing, revocation and suspension of financial adviser’s licence

19. —(1) A financial adviser’s licence shall lapse —

- (a) if the licensed financial adviser is wound up or otherwise dissolved, whether in Singapore or elsewhere; or
- 20 (b) in the event of such other occurrence or in such other circumstances as may be prescribed.
- (2) The Authority may revoke a financial adviser’s licence if —
- (a) there exists a ground on which the Authority may refuse an application under section 9 (1);
- 25 (b) the licensed financial adviser has contravened any provision of this Act, or any condition or restriction imposed or any written direction given by the Authority under this Act;
- (c) it appears to the Authority that the licensed financial adviser has failed to satisfy any of its obligations under or arising from this Act;
- 30

- (d) it appears to the Authority that the licensed financial adviser is carrying on its business in a manner that is —
- (i) likely to be detrimental to its clients; or
 - (ii) contrary to the public interest;
 - 5 (iii) any information or document that is furnished by the licensed financial adviser to the Authority is false or misleading; or
- (e) the licensed financial adviser fails or ceases to carry on the business for which it was licensed.
- 10 (3) The Authority may, if it considers it desirable to do so —
- (a) suspend a financial adviser's licence for a specific period instead of revoking it under subsection (2); and
 - (b) at any time extend or revoke the suspension.
- (4) Subject to subsection (5), the Authority shall not revoke or suspend a financial adviser's licence under subsection (2) or (3),
15 respectively, without giving the licensed financial adviser an opportunity to be heard.
- (5) The Authority may revoke or suspend a financial adviser's licence under subsection (2) or (3), respectively, without giving
20 the licensed financial adviser an opportunity to be heard on any of the following grounds:
- (a) the licensed financial adviser is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
 - 25 (b) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the licensed financial adviser;
 - (c) a prohibition order under section 59 has been made by the Authority, and remains in force, against the licensed
30 financial adviser; or
 - (d) the licensed financial adviser has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that it had acted fraudulently or dishonestly.

- (6) A person whose financial adviser's licence is revoked or suspended shall cease to act as a financial adviser from the date on which the revocation or suspension takes effect.
- (7) A financial adviser whose licence is revoked or suspended shall immediately inform all of its representatives, in writing, of such revocation or suspension.
- (8) Any lapsing, revocation or suspension of a financial adviser's licence shall not operate so as to —
- (a) avoid or affect any agreement, transaction or arrangement, relating to any investment product, entered into by the licensed financial adviser, whether the agreement, transaction or arrangement was entered into before or after the lapsing, revocation or suspension of the licence; or
- (b) affect any right, obligation or liability arising under any agreement, transaction or arrangement referred to in paragraph (a).
- (9) Any person who continues to act as a financial adviser in contravention of subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part thereof during which the offence continues after conviction.
- (10) Any financial adviser which contravenes subsection (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.”.

Amendment of section 20

16. Section 20 of the principal Act is amended —

- (a) by deleting paragraph (a) and substituting the following paragraph:
- “(a) by the refusal of the Authority to grant a financial adviser's licence to it, or to vary its licence; or”; and
- (b) by deleting the word “his” in paragraph (b) and substituting the word “its”.

Amendment of section 21

17. Section 21 of the principal Act is amended —

(a) by deleting paragraph (a) of subsection (2) and substituting the following paragraph:

5 “(a) an appointed representative of a licensed financial adviser or an exempt financial adviser (other than a person referred to in section 23(1)(ea) or (f); or”;

(b) by inserting, immediately after the word “adviser” in paragraph (b) of subsection (2), the words “referred to in section 23(1)(ea) or (f)”;

10

(c) by deleting paragraph (a) of subsection (4) and substituting the following paragraph:

15 “(a) an appointed representative of a licensed financial adviser or an exempt financial adviser (other than a person referred to in section 23(1)(ea) or (f) which provides any financial advisory service in respect of life policies; or”;

(d) by inserting, immediately after the word “adviser in paragraph (b) of subsection (4), the words “referred to in section 23(1)(ea) or (f)”.

20 **Amendment of section 23**

18. Section 23 of the principal Act is amended —

(a) by deleting subsection (5);

(b) by deleting the words “a licensed” in paragraph (b) of subsection (5A) and substituting the words “an appointed”;

25 (c) by deleting subsection (5B);

(d) by deleting subsection 5(C) and substituting the following subsection:

30 “(5C) For the avoidance of doubt, references in subsections (4) and (5A) to specific sections in this Act that apply to exempt financial advisers or representatives of persons referred to in subsection (1)(ea), respectively, do not include references to any regulations made under those sections unless the Authority prescribes that such regulations so apply.”;

- (e) by deleting subsection (6) and substituting the following subsections:

“(6) The Authority may, on the application of an exempt financial adviser (other than a person referred to in subsection (1) (f)), exempt it from complying with any of the provisions referred to in subsection (4) and (5A) , as the case may be.

(6A) The Authority may, on the application of an exempt financial adviser under subsection (1) (ea) exempt any of its representatives from complying with any of the provisions referred to in subsection (5A) , as the case may be.”;

- (f) by deleting the words “any of its representatives” in subsection (9) and substituting the words “a representative of a person referred to in subsection (1)(ea) or (f)”;

- (g) by inserting, immediately after subsection (13), the following subsections:

“(14) Any exempt financial adviser which contravenes any condition or restriction imposed under subsection (9) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$100,000 and, in the case of a continuing offence, to a further fine not exceeding \$10,000 for every day or part thereof during which the offence continues after conviction.

(15) Any representative who contravenes any condition or restriction imposed under subsection (9) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for everyday or part thereof during which the offence continues after conviction.”.

Repeal and re-enactment of section 23A

19. Section 23A of the principal Act is repealed and the following section substituted therefore:

“Annual fees payable by exempt financial advisers and certain representatives

23A. —(1) Every exempt financial adviser and representative of a person exempted under section 23(1)(ea) or (f) shall pay to the Authority such annual fee as may be prescribed and in such manner as may be specified by the Authority.

5 (2) Any annual fee paid by an exempt financial adviser or representative of a person exempted under section 23(1)(ea) or (f) to the Authority under subsection (1) shall not be refunded or remitted if —

(a) in the case of an exempt financial adviser —

10 (i) its exemption is withdrawn;

(ii) it fails or ceases to provide any financial advisory service; or

(iii) a prohibition order has been made against it under section 59, during the period to which the annual fee relates; and

15 (b) in the case of a representative of a person exempted under section 23(1)(ea) or (f) —

(i) his exemption is withdrawn;

(ii) he fails or ceases to act as a representative in respect of that regulated activity; or

20 (iii) a prohibition order has been made against him under section 59, during the period to which the annual fee relates.

(3) Subject to subsection (2), the Authority may, where it considers appropriate, refund or remit the whole or part of any annual fee paid or payable to it.”.

New Division 2 of Part II

25 **20.** The principal Act is amended by inserting, immediately after section 23A, the following Division:

“DIVISION 2 – REPRESENTATIVES

Acting as a representative

30 **23B.** — (1) No person shall act as a representative in respect of any financial advisory service or hold himself out as doing so, unless he is

- (a) an appointed representative in respect of such financial advisory service that has been notified to the Authority; or
- (b) a representative of an exempt person under section 23 (1)(ea) and (f) in so far as –

- 5 (i) the type and scope of financial advisory service provided by the first-mentioned person are within the type and scope of, or are the same as, those provided by the exempt person (in his capacity as an exempt person); and
- 10 (ii) the manner in which the first-mentioned person provides financial advisory service referred to in subsection (1) is the same as the manner in which the exempt person (in his capacity as an exempt person) provides financial advisory service.

15 (2) The Authority may exempt any person or class of persons from subsection (1), subject to such conditions or restrictions as may be imposed by the Authority.

20 (3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for every day or part thereof during which the offence continues after conviction.

Appointed representative

25 **23C.** — (1) A person may act as an appointed representative in respect of the provision of any financial advisory service if —

- (a) the person is an individual;
- (b) the following documents have been lodged by his principal with the Authority in such form and manner as the Authority may prescribe:
 - 30 (i) a notice of intent by the principal to appoint the individual to act as an appointed representative; and
 - (ii) a certification by the principal that the individual is a fit and proper person to be an appointed representative;

(c) his name has been listed on the Authority's public register of representatives; and

(d) he provides only the financial advisory services that -

(i) his principal is licensed to provide; or

(ii) are provided by his principal in his capacity as a person exempted from the requirement to hold a financial adviser's licence under section 23(1)(a) to (e).

(2) The Authority may require the principal or individual to furnish it with such information or documents as the Authority considers necessary in relation to the intended appointment of the individual as an appointed representative and the principal or the individual, as the case may be, shall comply with such a request.

(3) An individual shall immediately cease to act as an appointed representative to provide any financial advisory service on the date —

(a) of his cessation to act as an appointed representative, as notified by his principal to the Authority, in such form and manner as the Authority may prescribe;

(b) his principal ceases to provide that financial advisory service;

(c) the licence of his principal in respect of that financial advisory service is revoked, has lapsed or if a prohibition order is made against the principal;

(d) the individual dies; or

(e) of such other circumstances as the Authority may prescribe,

whichever is earlier.

(4) An individual shall not provide any financial advisory service as an appointed representative during the period in which the licence of his principal in respect of that financial advisory service is suspended.

(5) An individual who is not allowed to provide financial advisory service under subsection (4) and who has ceased to act as a representative of the principal who has been suspended may, subject to compliance with subsection (1), provide financial advisory service as an appointed representative for a new principal.

(6) A cessation by an individual to provide financial advisory service under subsection (3) or where an individual does not provide any financial advisory service by virtue of him not being allowed to provide financial advisory service under subsection (4) shall not operate so as to –

- (a) avoid or affect any agreement, transaction or arrangement relating to any investment product, entered into by such person, whether the agreement, transaction or arrangement was entered into before or after the cessation; or
- (b) affect any right, obligation or liability arising under any such agreement, transaction or arrangement.

(7) Where the individual is required to cease to act as an appointed representative under subsection (3) or is not allowed to provide financial advisory service under subsection (4), the Authority need not give the individual an opportunity to be heard.

(8) A principal shall not permit any individual to provide any financial advisory service on its behalf as its appointed representative unless the individual is an appointed representative under subsection (1) and the principal has lodged the documents required under subsection (1)(b).

(9) Where a change occurs in any particulars of the appointed representative required to be furnished to the Authority under subsection 1(b); the principal shall, no later than 14 days after the occurrence of such change, furnish particulars of such change to the Authority, in the prescribed form and manner.

(10) Where –

- (a) the individual ceases to act as an appointed representative for his principal; or
- (b) the individual ceases to provide any type of financial advisory service or financial advisory service in respect of any type of investment product which he is appointed to provide,

the principal shall, no later than the next business day after such cessation, furnish particulars of such cessation to the Authority, in the prescribed form and manner.

(11) The principal shall make such notification and in such form and manner as may be prescribed by the Authority.

(12) Where a person satisfies all the requirements of an appointed representative under this section but for the examination requirements issued by way of written directions under section 58 of the Act by the Authority, the Authority may allow such a person to act as an appointed representative for such period of time as the Authority may prescribe or such other period as the Authority may by notice in writing allow, in respect of such notified financial advisory service (referred to in this Act as a provisional representative), subject to the following conditions:

- (a) the principal lodges with the Authority in such form and manner as the Authority may prescribe an undertaking in respect of its intent to appoint an individual to act as a provisional representative;
- (b) that the person thereafter satisfies the examination requirements in respect of the notified financial advisory service within such period as may be prescribed by the Authority or such other period as the Authority may by notice in writing allow;
- (c) that the person satisfies such other conditions and restrictions as the Authority may impose; and
- (d) that the person is not, by virtue of the circumstances prescribed by the Authority, disqualified from acting as a provisional representative.

(13) If a person who is allowed to act as a provisional representative under subsection (12) fails to comply with such conditions and restrictions as may be imposed by the Authority under that subsection, that person shall immediately cease to act as a provisional representative.

(14) Where a provisional representative has satisfied the examination requirements within the period prescribed or allowed by the Authority under subsection (12)(b), the principal of the provisional representative shall inform the Authority, in the prescribed form and manner, that the provisional representative has satisfied the examination requirements in respect of the relevant notified financial advisory service.

(15) Upon notification by the principal under subsection (14), the provisional representative shall cease to be a provisional representative and may act as an appointed representative to provide such notified financial advisory service.

5 (16) For the avoidance of doubt, nothing shall prevent the principal of a provisional representative from informing the Authority of the satisfaction of the examination requirements in respect of any notified financial advisory service under subsection (14) before the expiry of the prescribed period, or such other period of time as allowed by the Authority, under subsection (12)(b) provided that upon the principal
10 informing the Authority of the satisfaction of the examination requirements in respect of any notified financial advisory service, the provisional representative shall immediately cease to act as a provisional representative to provide such other notified financial advisory service for which the examination requirements have not
15 been satisfied.

(17) Where the principal of a provisional representative fails to inform the Authority that the provisional representative has completed the examination requirements by the prescribed period, or
20 such other period of time as allowed by the Authority, under subsection 12(b) above, the provisional representative shall immediately cease to act as a provisional representative.

(18) Any person who contravenes subsection (1), (2), (3), (4), (13) or (17) shall be guilty of an offence and shall be liable on conviction
25 to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for every day or part thereof during which the offence continues after conviction.

(19) Any person who contravenes subsection (8), (9), (10), (11), or
30 (14) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.

(20) The Authority may exempt any person or class of persons from
35 the requirements of this section, subject to such conditions or restrictions as may be imposed by the Authority.

Notification and annual fees

23D. — (1) A principal shall pay such notification fee in relation to the notification of an individual intending to act as his appointed representative as may be prescribed by the Authority.

5 (2) A principal shall pay such annual fee in relation to the notification of an individual intending to act as his appointed representative as may be prescribed by the Authority.

10 (3) A principal shall pay such fee in relation to any resubmission of a form or change in particulars of a form lodged with the Authority as may be prescribed by the Authority.

(4) Unless otherwise prescribed by the Authority, any fee paid to the Authority under this section shall not be refunded.

15 (5) Where the principal fails to pay such notification fee or annual fee, as the case may be, by the day on which the fee is due, the Authority may impose a late payment fee not exceeding \$100 for every day or part thereof that the payment is late, subject to a maximum of \$3,000.

Additional financial advisory service

20 **23E.** —(1) An appointed representative (other than a provisional representative) may carry out additional financial advisory service to those notified to the Authority under section 23C if –

(a) the following documents have been lodged by his principal with the Authority in such form and manner as the Authority may prescribe:

25 (i) a notice of intent by the principal;

(ii) a certification by the principal that the individual is a fit and proper person to be an appointed representative in respect of that additional financial advisory service;

30 (b) his name has been listed on the Authority's public register of representatives in respect of that additional financial advisory service; and

(c) he provides only financial advisory service that –

(i) his principal is licensed to provide; or

(ii) provided by his principal in his capacity as a person exempted from the requirement to hold a financial adviser's licence under section 23(1)(a) to (e).

5 (2) The Authority may require the principal or individual to furnish it with such information or documents as the Authority considers necessary in relation to the intended appointment of an individual as an appointed representative in relation to the additional financial advisory service and the principal or the individual, as the case may be, shall comply with such a request.

10 (3) A notification under subsection (1) shall be accompanied by a non-refundable prescribed notification fee which shall be paid in the manner specified by the Authority.

Power of Authority to refuse to enter, revoke or suspend

15 **23F** – (1) Subject to regulations made under this Act, the Authority may refuse to enter or revoke, an individual from the Authority's public register of representatives if —

- (a) he fails or ceases to act as a appointed representative in respect of all the financial advisory services for which his notification relates;
- 20 (b) he or his principal has not provided the Authority with such information or documents as the Authority may require;
- (c) he is an undischarged bankrupt whether in Singapore or elsewhere;
- (d) execution against him in respect of a judgment debt has been
25 returned unsatisfied in whole or in part;
- (e) he has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his creditors, being a compromise or scheme of arrangement that is still in operation;
- 30 (f) he —
 - (i) has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; or

- (ii) has been convicted of an offence under this Act;
- (g) the Authority is not satisfied as to his educational or other qualification or experience, having regard to the nature of the duties he is to perform in relation to the relevant financial advisory service;
- (h) he or his principal fails to satisfy the Authority that he is a fit and proper person;
- (i) the Authority has reason to believe that he may not act in the best interests of the clients of his principal, having regard to his reputation, character, financial integrity and reliability;
- (j) the Authority is not satisfied as to his financial standing;
- (k) the Authority is not satisfied as to his record of past performance or expertise, having regard to the nature of the duties which he may perform in relation to the provision of the relevant financial advisory service;
- (l) there are other circumstances which are likely to lead to the improper conduct of business by, or reflect discredit on the manner of conducting the business of, the individual or any person employed by or associated with him for the purpose of his business;
- (m) the individual is in arrears in the payment of such contributions on his own behalf to the Central Provident Fund as are required under the Central Provident Fund Act (Cap. 36);
- (n) the Authority has reason to believe that he will not perform the relevant financial advisory service efficiently, honestly or fairly;
- (o) the Authority is of the opinion that it would be contrary to the interests of the public to enter the individual's name in or keep his name on the public register of representatives as an appointed representative;
- (p) the Authority has reason to believe that any information or document that is furnished by him or his principal to the Authority is false or misleading;

(q) he has contravened any provision of this Act applicable to him, any condition or restriction imposed on him under this Act or any direction issued to him by the Authority under this Act;

5 (r) a prohibition order under section 59 has been made by the Authority, and remains in force, against him; or

(s) the licence of his principal is revoked.

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

10 (a) suspend an appointed representative from providing financial advisory service for a specific period instead of revoking the notification under subsection (1); and

(b) at any time extend or revoke the suspension.

15 (3) The Authority shall not refuse to enter, revoke or suspend an individual under subsection (1)(p) if –

(a) in the case where the individual furnished false or misleading information or document to the Authority, the individual proves that he had –

20 (i) made all inquiries (if any) that were reasonable in the circumstances; and

(ii) after doing so, believed on reasonable grounds that the information or document was not false or misleading;

(b) in the case where the principal furnished false or misleading information or document to the Authority and –

25 (i) such information or document was furnished to the principal by the individual, the individual proves that he had –

(A) made all inquiries (if any) that were reasonable in the circumstances; and

30 (B) after doing so, believed on reasonable grounds that the information or document was not false or misleading; or

(ii) such information or document was not furnished to the principal by the individual, the principal proves that he had –

(A) made all inquiries (if any) that were reasonable in the circumstances; and

(B) after doing so, believed on reasonable grounds that the information or document was not false or misleading.

(4) Subject to subsection (3), the Authority shall not refuse to enter, suspend or remove from notification, an individual in the Authority's public register of representatives, without giving him an opportunity to be heard.

(5) The Authority may refuse to enter, suspend or remove from notification, an individual from the Authority's public register of representatives, on any of the following grounds without giving him an opportunity to be heard:

(a) he is an undischarged bankrupt, whether in Singapore or elsewhere;

(b) he has been convicted, whether in Singapore or elsewhere, of an offence —

(i) involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; and

(ii) punishable with imprisonment for a term of 3 months or more.

(6) An individual who has been suspended from acting as an appointed representative to provide financial advisory service shall cease to act as an appointed representative from the date on which the suspension takes effect until the expiration of the period of suspension.

(7) Any appointed representative who provides a financial advisory service while his notification has been suspended or removed shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for every day or part thereof during which the offence continues after conviction.

(8) A suspension or removal from notification of an appointed representative shall not operate so as to –

(a) avoid or affect any agreement, transaction or arrangement relating to any investment product, entered into by such person, whether the agreement, transaction or arrangement was entered into before or after the suspension or removal, as the case may be; or

(b) affect any right, obligation or liability arising under any such agreement, transaction or arrangement.

Power of Authority to impose conditions or restrictions

23G.- (1) The Authority may by notice in writing to an appointed representative impose such conditions or restrictions as it thinks fit.

(2) Without prejudice to the generality of subsection (1), the Authority may, in entering the appointed representative's name in the register, impose conditions or restrictions with respect to the type of financial advisory service which the appointed representative may or may not provide.

(3) The Authority may, at any time, by notice in writing to the appointed representative vary or revoke any condition or restriction or impose such further condition or restriction as it may think fit.

(4) Any person who contravenes any condition or restriction imposed by the Authority under this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for everyday or part thereof during which the offence continues after conviction.

False statements in relation to notification of appointed representative

23H. – (1) Any principal who, in connection with the provision of the notice of intent and certification to the Authority under section 23(C) for an individual to act as its appointed representative —

(a) makes a statement which is false or misleading in a material particular; or

(b) omits to state any matter or thing without which the notice or certification is misleading in a material respect,

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

5 (2) Any individual who, in connection with his principal's notification or certification to the Authority for him to act as an appointed representative-

10 (a) makes a statement to the principal which is false or misleading in a material particular and such statement was thereafter provided to the Authority ; or

(b) omits to state any matter or thing to the principal without which his notification or certification as an appointed representative is misleading in a material respect,

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

(3) Any individual who, in connection with his principal's notification or certification to the Authority for him to act as an appointed representative –

20 (a) makes a statement to the Authority which is false or misleading in a material particular; or

(b) omits to state any matter or thing to the Authority without which his notification or certification as an appointed representative is misleading in a material respect,

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

(4) A person referred to in subsection (1), (2) or (3) shall not be guilty of an offence if he proves that he –

30 (a) made all inquiries (if any) that were reasonable in the circumstances; and

(b) after doing so, believed on reasonable grounds that the statement made or the omission to state the matter or thing, as the case may be, was not false or misleading.

Right of Appeal

23I. — Any person who is aggrieved by —

- (a) the refusal of the Authority to enter his name in the public register of representatives;
- 5 (b) the removal from notification by the Authority of an appointed representative from the public register of representatives; or
- (c) the suspension of an appointed representative by the Authority;

10 may within 30 days after it is notified of the decision of the Authority, appeal to the Minister whose decision shall be final.”.

Repeal of section 24

21. Section 24 of the principal Act is repealed.

Amendment of section 29

15 **22.** Section 29 of the principal Act is amended —

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

20 “(1) The Authority may, in writing, require any licensed financial adviser to furnish it with information about any matter related to its business whether carried on in Singapore or elsewhere if, in the opinion of the Authority, it requires the information for the discharge of its functions under this Act.”;

- (b) by deleting the words “, or a licensed representative who,” in subsection (2).

Repeal and re-enactment of Division 4 of Part III

23. Division 4 of Part III of the principal Act is repealed and the following Division substituted therefore:.

“DIVISION 4 – APPOINTED REPRESENTATIVES

Business conduct requirements of an appointed representative

37.-(1) Subject to the provisions of this Act, sections 25, 26, 27, 29, 33, 34 and 36 shall apply, with the necessary modifications to an appointed representative in respect of his acting as such as if he were a licensed financial adviser.

(2) The Authority may, on the application of a licensed financial adviser or an exempt financial adviser (other than a person exempt under sections 23(1)(ea) or (f)), exempt any of its appointed representatives from complying with any of the provisions referred to in subsection (1).

(3) An exemption granted under subsection (2) need not be published in the Gazette.

(4) The Authority may withdraw an exemption granted to any person under subsection (2) if the person contravenes any provision of this Act, or if the Authority considers it necessary in the public interest.

(5) Where the Authority withdraws an exemption granted to any person under subsection (2), the Authority need not give the person an opportunity to be heard.

(6) An exempt financial adviser which is aggrieved by the decision of the Authority to withdraw an exemption granted to any of its appointed representatives under subsection (2) may, within 30 days of the decision, appeal in writing to the Minister.

(7) A withdrawal under subsection (4) of an exemption granted to any person shall not operate so as to —

(a) avoid or affect any agreement, transaction or arrangement, relating to any investment product entered into by the person, whether the agreement, transaction or arrangement was entered into before or after the withdrawal of the exemption; or

(b) affect any right, obligation or liability arising under any agreement, transaction or arrangement referred to in paragraph (a).”

Amendment of section 56

24. Section 56 of the principal Act is amended -

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

“(1) Subject to subsection (1B), no licensed financial adviser shall

—

- 5 (a) appoint a person as its chief executive officer or director;
or

(b) change the nature of an appointment of a director from a non-executive to executive capacity,

unless it has obtained the approval of the Authority.”;

- 10 (b) by deleting the word “subsection (1)” in subsection (1A) and substituting the words “subsection (1)(a)”;

- (c) by inserting, immediately after subsection (1A), the following subsection:

“(IB) Subsection (1) shall not apply to the appointment of a person
15 as a director or the change in nature of an appointment of a director of a foreign company where, upon the appointment or change, as the case may be, the person –

(a) does not or will not, reside in Singapore; and

- 20 (b) is not or will not be, directly responsible for the licensed financial adviser’s business in Singapore or any part thereof.”; and

(d) by deleting the word “shall” in the second sentence of subsection (2) and substituting the word “may”.

Amendment of section 57

- 25 **25.** Section 57 of the principal Act is amended –

(a) by inserting, immediately after the word “duties” in paragraph (c) of subsection (1), the words “or functions”;

(b) by deleting the word “or” at the end of paragraph (fa) of subsection (1);

- 30 (c) by deleting the comma at the end of paragraph (g) of subsection (1) and substituting a semi-colon and the word “or”; and

(d) by inserting, immediately after paragraph (g) of subsection (1), the following paragraph:

“(h) is not a fit and proper person.”.

New sections 57A and 57B

5 **26.** The principal Act is amended by inserting, immediately after section 57, the following sections:

“Control of take-over of licensed financial adviser

10 **57A.**—(1) This section shall apply to and in relation to all individuals whether resident in Singapore or not and whether citizens of Singapore or not, and to all bodies corporate or unincorporate, whether incorporated or carrying on business in Singapore or not.

15 (2) No person shall enter into any arrangement in relation to a licensed financial adviser by virtue of which he would, if the arrangement is carried out, obtain effective control of the licensed financial adviser without obtaining the prior approval of the Authority.

20 (3) Any person intending to enter into any arrangement to obtain effective control of a licensed financial adviser under subsection (2) shall apply to the Authority for approval in writing and the Authority may approve such an application made by any person if the Authority is satisfied that –

- (a) the person is a fit and proper person;
- 25 (b) having regard to the person’s likely influence, the licensed financial adviser is likely to continue to conduct its business prudently and comply with the provisions of this Act and directions made thereunder; and
- (c) such other criteria as may be prescribed or as may be specified in written directions by the Authority.

30 (4) Any approval under subsection (3) may be granted to any person subject to such conditions as the Authority may determine, including but not limited to any condition —

- (a) restricting the person’s disposal or further acquisition of shares or voting power in the licensed financial adviser; or

(b) restricting the person's exercise of voting power in the licensed financial adviser,

and the person shall comply with such conditions.

(5) Any condition imposed under subsection (4) shall have effect notwithstanding any provision of the Companies Act (Cap. 50) or anything contained in the memorandum or articles of association of the licensed financial adviser.

(6) For the purposes of this section —

(a) “arrangement” includes any formal or informal scheme, arrangement or understanding, and any trust whether express or implied;

(b) a person shall be regarded as entering into an arrangement by virtue of which he would obtain effective control of a licensed financial adviser if the person alone or acting together with any connected person would be in a position to control, directly or indirectly, not less than 20% of the voting power in the licensed financial adviser or would hold interests, directly or indirectly, in not less than 20% of the issued shares of the licensed financial adviser;

(c) a reference to an arrangement by which a person would obtain effective control of a licensed financial adviser includes a reference to an arrangement by which the person would acquire any interest, directly or indirectly, in shares in the licensed financial adviser where, upon the acquisition of those interests and of any other interest in other shares of the licensed financial adviser that he has offered to acquire, he would have effective control of the licensed financial adviser; and

(d) a reference to the voting power in a licensed financial adviser is a reference to the total number of votes that may be cast in the general meeting of the licensed financial adviser.

(7) Any person who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$75,000 or to imprisonment for a term not exceeding 3 years or to both.

(8) Any person who contravenes subsection (4) shall be guilty of an offence.

Objection to existing control of licensed financial adviser

5 **57B** – (1) The Authority may serve a written notice of objection on any person referred to in section 57A if the Authority is satisfied that

- (a) any condition of approval imposed on the person under section 57A (4) has not been complied with;
- (b) the person is not or ceases to be a fit and proper person;
- 10 (c) having regard to the likely influence of the person, the licensed financial adviser is not able to or is no longer likely to conduct its business prudently or to comply with the provisions of this Act or any direction made thereunder;
- (d) the person has furnished false or misleading information or documents in connection with an application under section 15 57A; or
- (e) the Authority would not have granted its approval under section 57A had it been aware, at that time, of circumstances relevant to the person’s application for such approval.

20 (2) The Authority shall not serve a notice of objection on any person without giving the person an opportunity to be heard, except in the following circumstances:

- 25 (a) the person is in the course of being wound up or otherwise dissolved, or in the case of an individual, in the course of bankruptcy proceedings, whether in Singapore or elsewhere;
- (b) a receiver, a receiver and manager, a judicial manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the person;
- 30 (c) a prohibition order under section 59 has been made by the Authority, and remains in force, against the person;
- (d) the person has been convicted, whether in Singapore or elsewhere, of any offence involving fraud or dishonesty or

the conviction for which involved a finding that the person had acted fraudulently or dishonestly.

(3) The Authority shall, in any written notice of objection, specify a reasonable period within which the person to be served the written notice of objection shall –

(a) take such steps as are necessary to ensure that he ceases to be a party to the arrangement described in section 57A (2) or ceases to have effective control of a licensed financial adviser as defined in section 57A(6); or

(b) comply with such other requirements as the Authority may specify in written directions.

(4) Any person served with a notice of objection under this section shall comply with the notice.

(5) Any person who contravenes subsection (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$75,000 or to imprisonment for a term not exceeding 3 years or to both.”.

Amendment of section 58

27. Section 58 of the principal Act is amended —

(a) by deleting the words “of a person exempt under section 23” in subsection (1)(c); and

(b) by deleting the words “of a person exempt under section 23” in subsection (2)(a)(i)(C).

Amendment of section 59

28. Section 59 of the principal Act is amended —

(a) by deleting the word “licence” in paragraph (a) of subsection (1) and substituting the words “financial adviser’s licence”;

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

“(b) where the person is an exempt financial adviser, the Authority has reason to believe that circumstances exist under which, if the person were a licensed financial adviser, there

would exist a ground on which the Authority may revoke his licence under section 19(2);”;

(c) by inserting, immediately after paragraph (b) of subsection (1), the following paragraph:

5 “(ba) the Authority suspends or revokes an individual in the Authority’s public register of representatives;”;

(d) by deleting the word “or” at the end of paragraph (d) of subsection (1);

10 (e) by deleting the full-stop at the end of paragraph (e) of subsection (1) and inserting the word “;or”;

(f) by inserting, immediately after paragraph (e) of subsection (1), the following paragraph:

15 “(f) the person has been removed as an officer of a licensed financial adviser by the licensed financial adviser at the direction of the Authority under section 57 of this Act.”; and

(g) by deleting paragraph (a) of subsection (2) and substituting the following paragraph:

20 “(a) prohibit the person from —
 (i) providing any financial advisory service, or providing such financial advisory service in specified circumstances or capacities;
 (ii) taking part, directly or indirectly, in the management of, acting as a director of, or becoming a shareholder of a licensed financial adviser,

25 whether permanently or for a specified period; and”.

Amendment of section 60

29. Section 60 of the principal Act is amended –

(a) by deleting the word “representative” in subsection (2) and substituting the word “person”; and

30 (b) by inserting, immediately after subsection (4), the following subsection:

“(5) The issue of a prohibition order shall not operate so as to —

(a) avoid or affect any agreement, transaction or arrangement relating to the regulated activities entered into by such person, whether the agreement, transaction or arrangement was entered into before or after the revocation, suspension or lapsing of the licence or the issue of the prohibition order, as the case may be; or

(b) affect any right, obligation or liability arising under any such agreement, transaction or arrangement.”.

Repeal and re-enactment of section 63 and new section 63A

30. Section 63 of the principal Act is repealed and the following sections substituted therefore:

“Record in relation to licensed financial advisers

63. —(1) The Authority shall establish and maintain in such form as it thinks fit, a record of information on licensed financial advisers, comprising –

- (a) each licensee’s name;
- (b) the address of the principal place of business at which it carries on the business in respect of which the licence is held;
- (c) the type or types of financial advisory service or investment product to which its licence relates;
- (d) where the business is carried on under a name or style other than the name of the holder of the licence, the name or style under which the business is carried on;
- (e) officers removed by it, as directed by the Authority in the exercise of its powers under section 57; and
- (f) such other information as may be prescribed.

(2) The Authority may prescribe the manner in which the records are established or maintained, including the details or particulars required to be entered in the records.

(3) The Authority may publish the information referred to in subsection (1), or any part of it in a financial institutions directory, set out at the Authority’s Internet website at <http://www.mas.gov.sg>.

- (4) Any person may, upon payment of such fee as may be prescribed, inspect and take an extract from the records established under subsection (1), and any such extract, certified by the Authority to be a true copy, shall be admissible as evidence in any legal proceedings.

Record of appointed representatives

63A. (1) The Authority shall establish and maintain, in such form as it thinks fit, a record of information on appointed representatives, comprising –

- (a) each representative's name;
- (b) the name of all his current and past principals;
- (c) the type or types of financial advisory service or investment product provided by him, currently or in the past and the date of commencement and cessation (if any) of such financial advisory service or investment product;
- (d) where the business of the principal for which he acts is carried on under a name or style other than the name of the principal, the name or style under which the business is carried on;
- (e) formal regulatory actions taken by the Authority against him; and
- (f) such other information as may be prescribed by the Authority.

(2) The Authority may publish the information referred to in subsection (1), or any part of it in the public register of representatives, set out at the Authority's Internet website at <http://www.mas.gov.sg>."

Amendment of section 68

31. Section 68 of the principal Act is amended by deleting the words "under this section" in subsection (2) and substituting the words "in respect of any offence under section 76".

Amendment of section 70

32. Section 70 of the principal Act is amended –

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

“(1) The Authority may from time to time inspect, under conditions of secrecy, the books of –

- 5 (a) a licensed financial adviser;
- (b) an exempt financial adviser in respect of its business of providing financial advisory service as if it is a licensed financial adviser; or
- (c) a representative.

10 (2) For the purposes of an inspection under this section —

- (a) a person referred to in subsection (1) or any person who is in possession of the books, shall produce such books to the Authority and give such information or facilities as may be required by the Authority;
- 15 (b) a person referred to in subsection (1) shall procure that any person who is in possession of its books produce the books to the Authority and give such information or facilities as may be required by the Authority; and
- (c) the Authority may —
 - 20 (i) make copies of, or take possession of, any of such books;
 - (ii) use, or permit the use of, any of such books for the purposes of any proceedings under this Act; and
 - (iii) retain possession of any of such books for so long
 - 25 as is necessary —
 - (A) for the purposes of exercising a power conferred by this section (other than subsection (4));
 - (B) for a decision to be made on whether or not proceedings should be commenced under this Act in
 - 30 relation to such books; or
 - (C) for such proceedings to be commenced and carried on.”; and

(c) by deleting the words “of a licensee” in the first sentence of subsection (4).

New section 70A

33. The principal Act is amended by inserting, immediately after section 70, the following section:

“Confidentiality of inspection reports

5 **70A** —(1) Where a written report or any part thereof (referred to in this section as the report) has been produced by the Authority upon an inspection under section 70 in respect of any licensed financial adviser, exempt financial adviser or representative under the inspection (referred to in this section as the inspected person), the report shall not be disclosed by the inspected person, or any of its officer or auditor, to any other person except in the circumstances provided under subsection (2).

(2) Disclosure of the report referred to in subsection (1) may be made -

15 (a) by the inspected person to any officer or auditor of that inspected person solely in connection with the performance of the duties of the officer or auditor, as the case may be, in that inspected person;

20 (b) by any officer or auditor of the inspected person to any other officer or auditor, solely in connection with the performance of their duties in that inspected person; or

(c) to any other person as the Authority may approve in writing.

25 (3) In granting written approval for any disclosure under subsection (2) (c), the Authority may impose such conditions or restrictions as it thinks fit on the inspected person, or any of its officer or auditor and the inspected person, the officer or auditor, as the case may be, shall comply with such conditions and restrictions.

30 (4) The obligation on an officer or auditor referred to in subsection (1) shall continue after the termination or cessation of his employment or appointment at the inspected person.

(5) Any person to whom the report is disclosed and who knows or has reasonable grounds for believing, at the time of the disclosure, that the report was disclosed to him in contravention of subsection (1) shall be guilty of an offence, unless he proves that —

35 (a) the disclosure was made contrary to his desire;

(b) where the disclosure was made in any written form, he has as soon as practicable surrendered or taken all reasonable steps to surrender the report and all copies thereof to the Authority; and

5 (c) where the disclosure was made in an electronic form, he has as soon as practicable taken all reasonable steps to ensure that all electronic copies of the report have been deleted and that the report and all copies thereof in other forms have been surrendered to the Authority.

10 (6) Any person who contravenes subsection (1), (3) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000, or to imprisonment for a term not exceeding 2 years or both.”.

New section 71A

15 **34.** The principal Act is amended by inserting, immediately after section 71, the following section:

“Confidentiality of investigation reports

20 **71A** —(1) Where a written report or any part thereof (referred to in this section as the report) has been produced by the Authority upon an investigation under section 71 in respect of any person under the investigation (referred to in this section as the investigated person), the report shall not be disclosed by the investigated person, or any of its officer or auditor, to any other person except in the circumstances provided under subsection (2).

25 (2) Disclosure of the report referred to in subsection (1) may be made -

30 (a) by the investigated person to any officer or auditor of that investigated person solely in connection with the performance of the duties of the officer or auditor, as the case may be, in that investigated person;

(b) by any officer or auditor of the investigated person to any other officer or auditor, solely in connection with the performance of their duties in that investigated person; or

(c) to any other person as the Authority may approve in writing.

(3) In granting written approval for any disclosure under subsection (2) (c), the Authority may impose such conditions or restrictions as it thinks fit on the investigated person, or any of its officer or auditor and the investigated person, the officer or auditor, as the case may be, shall comply with such conditions and restrictions.

(4) The obligation on an officer or auditor referred to in subsection (1) shall continue after the termination or cessation of his employment or appointment at the investigated person.

(5) Any person to whom the report is disclosed and who knows or has reasonable grounds for believing, at the time of the disclosure, that the report was disclosed to him in contravention of subsection (1) shall be guilty of an offence, unless he proves that —

(a) the disclosure was made contrary to his desire;

(b) where the disclosure was made in any written form, he has as soon as practicable surrendered or taken all reasonable steps to surrender the report and all copies thereof to the Authority; and

(c) where the disclosure was made in an electronic form, he has as soon as practicable taken all reasonable steps to ensure that all electronic copies of the report have been deleted and that the report and all copies thereof in other forms have been surrendered to the Authority.

(6) Any person who contravenes subsection (1), (3) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000, or to imprisonment for a term not exceeding 2 years or both.”.

Amendment of section 77

35. Section 77 of the principal Act is amended by inserting, immediately after the definition of “material”, the following definitions:

““parent entity”, in relation to a licensed financial adviser, means an entity which is able to exercise a significant influence over the direction and management of the licensed financial adviser or which has a controlling interest in the licensed financial adviser;

“parent supervisory authority”, in relation to a licensed financial adviser, means the supervisory authority which is responsible, under

the laws of the country or territory where the licensed financial adviser or its parent entity is incorporated, formed or established, for supervising the licensee's or the parent entity's activities, as the case may be;”.

5

New Division heading for Part VII

36. Part VII of the principal Act is amended by inserting, immediately after section 77, the following Division heading:

10 *“DIVISION 1 – ASSISTANCE FOR SUPERVISION,
INVESTIGATION AND ENFORCEMENT”.*

Amendment of section 81

37. Section 81 of the principal Act is amended by deleting the word “Part” in the section heading and substituting the word “Division”.

New Division 2 of Part VII

15 38. The principal Act is amended by inserting, immediately after Division 1 of Part VII, the following Division:

“DIVISION 2 – ASSISTANCE FOR INSPECTION

Inspection in Singapore by parent supervisory authority

20 **82A**—(1) In relation to a licensed financial adviser or its parent entity incorporated outside Singapore, a parent supervisory authority may, with the prior written approval of the Authority and under conditions of secrecy, conduct an inspection in Singapore of the books of the licensed financial adviser in Singapore in accordance with this section if the following conditions are satisfied:

- 25 (a) the inspection is required by the parent supervisory authority for the sole purpose of carrying out its supervisory functions;
- (b) the parent supervisory authority —
- 30 (i) is prohibited by the laws applicable to the parent supervisory authority from disclosing information

obtained by it in the course of the inspection to any other person; or

(ii) has given to the Authority such written undertaking, as to the confidentiality of the information obtained, as the Authority may determine; and

(c) the parent supervisory authority has given a written undertaking to the Authority to comply with such conditions as the Authority may impose under subsection (3).

(2) In deciding whether to grant its approval to a parent supervisory authority under subsection (1), the Authority may also have regard to the following:

(a) whether the parent supervisory authority has given or is willing to give an undertaking to the Authority to comply with a future request by the Authority to the parent supervisory authority for similar assistance;

(b) whether the parent supervisory authority has given or is willing to give an undertaking to the Authority to contribute towards the costs of providing the assistance the parent supervisory authority has requested for; and

(c) in the case of a parent supervisory authority of a parent entity, whether the parent entity carries out substantial operations in the jurisdiction of the parent supervisory authority.

(3) The Authority may at any time, whether before, on or after giving written approval for an inspection under this section, require the parent supervisory authority to comply with conditions or restrictions relating to —

(a) the classes of information to which the parent supervisory authority shall or shall not have access in the course of the inspection;

(b) the conduct of the inspection;

(c) the use or disclosure of any information obtained in the course of the inspection; and

(d) such other matters as the Authority may determine.

(4) Subject to compliance by a parent supervisory authority with such conditions or restrictions as the Authority may impose under subsection (3), the licensed financial adviser under inspection —

5 (a) shall afford the parent supervisory authority access to such books of the licensed financial adviser under inspection, and provide such information (including information relating to the licensee's internal control systems) and facilities as may be required to conduct the inspection; and

10 (b) shall not be required to afford the parent supervisory authority access to its books or to provide information or facilities at such times or at such places as would unduly interfere with the proper conduct of the normal daily business of the licensed financial adviser.

15 (5) A parent supervisory authority may, with the prior written approval of the Authority request the auditors of the parent entity or the head office, as the case may be, of the licensed financial adviser or appoint any person to conduct the inspection under subsection (1) and in such event, this section (other than this subsection) shall apply to the auditors or the person, as the case may be, as if a reference to the parent supervisory authority or any official of the parent supervisory authority in this section includes a reference to the auditors or the person.

20 (6) Any licensed financial adviser which refuses or neglects, without reasonable excuse, to afford access to any book or provide any information or facility as may be required by this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.

Confidentiality of inspection reports

30 **82B** —(1) Where a written report or any part thereof (referred to in this section as the report) has been produced by a parent supervisory authority upon an inspection under section 82A in respect of any licensed financial adviser, the report shall not be disclosed by the licensed financial adviser, or any of its officer or auditor, to any other person except in the circumstances provided under subsection (2).

35

(2) Disclosure of the report referred to in subsection (1) may be made -

- 5 (a) by the licensed financial adviser to any officer or auditor of the licensed financial adviser solely in connection with the performance of the duties of the officer or auditor, as the case may be, in that licensed financial adviser;
- (b) by any officer or auditor of the licensed financial adviser to any other officer or auditor, solely in connection with the performance of their duties in that licensed financial adviser;
- 10 (c) to the Authority if requested by the Authority, where the report has been produced by a parent supervisory authority; or
- (d) to any other person as the Authority may approve in writing.

15 (3) In granting written approval for any disclosure under subsection (2) (d), the Authority may impose such conditions or restrictions as it thinks fit on the licensed financial adviser, or any of its officer or auditor and the licensed financial adviser, the officer or auditor, as the case may be, shall comply with such requirements and restrictions.

20 (4) The obligation on an officer or auditor referred to in subsection (1) shall continue after the termination or cessation of his employment or appointment at the licensed financial adviser.

25 (5) Any person to whom the report is disclosed and who knows or has reasonable grounds for believing, at the time of the disclosure, that the report was disclosed to him in contravention of subsection (1) shall be guilty of an offence, unless he proves that —

- (a) the disclosure was made contrary to his desire;
- (b) where the disclosure was made in any written form, he has as soon as practicable surrendered or taken all reasonable steps to surrender the report and all copies thereof to the Authority; and
- 30 (c) where the disclosure was made in an electronic form, he has as soon as practicable taken all reasonable steps to ensure that all electronic copies of the report have been deleted and that the report and all copies thereof in other forms have
- 35 been surrendered to the Authority.

(6) Any person who contravenes subsection (1), (3) or (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000, or to imprisonment for a term not exceeding 2 years or both.”.

5 **Amendment of section 88**

39. Section 88 of the principal Act is amended by inserting, immediately after the numbers “19(12),” in subsection (2)(a), the numbers “23(14),”.

Amendment of section 97

40. Section 97 of the principal Act is amended —

10 (a) by deleting the word “licence” in paragraph (a)(ii) of the definition of “misconduct” in subsection (2) and substituting the words “financial adviser’s licence, a notification”; and

(b) by deleting the definition of “relevant person” in subsection (2) and substituting the following definition:

15 ““relevant person” means any licensed financial adviser, exempt financial adviser, representative, or officer or partner of a licensed financial adviser or an exempt financial adviser.”.

Amendment of section 104

20 **41.** Section 104(2) of the principal Act is amended —

(a) by deleting the words “or renewal of licences” in paragraph (a) and substituting the words “of financial adviser’s licences”;

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

25 “(aa) the restrictions relating to the granting of any unsecured advance, unsecured loan or unsecured credit facility by a licensed financial adviser to its officer, employee or representative;”;

(c) by deleting paragraph (b) and substituting the following paragraph:

30 “(b) the activities of, and standards to be maintained by, a licensed financial adviser, an exempt financial adviser or a

representative, including the manner, method and place of soliciting business and the conduct of such solicitation;”;

- (d) by deleting paragraph (f) and substituting the following paragraph:

5 “(f) the manner in which a licensed financial adviser, an exempt financial adviser or a representative conducts his dealings with the clients of the licensed financial adviser or exempt financial adviser, as the case may be;”;

- 10 (e) by deleting the word “licensees” in paragraph (g) and substituting the words “licensed financial advisers and their appointed representatives”;

- (f) by deleting paragraph (h) and substituting the following paragraph:

15 “(h) the disclosure by a licensed financial adviser, or by an exempt financial adviser or any representative, of any material interest that he may have in a proposed transaction relating to purchasing, subscribing for or trading in capital markets products;”;

- 20 (g) by inserting, immediately after paragraph (j), the following paragraph:

“(ja) the expenses to be paid in respect of any matter or thing required for the purposes of this Act, including licences required under this Act and the refund and remission, whether in whole or in part, of such expenses;”;

- 25 (h) by deleting paragraph (l); and

- (i) by inserting, immediately after paragraph (m), the following paragraph:

30 “(ma) the maintenance by a proprietor or publisher of a newspaper of the particulars of any financial journalist who has contributed any advice, analysis or report concerning securities which are listed for quotation, or quoted, on a securities exchange or recognised market operator, that has been published in the newspaper and the provision of such particulars to the Authority; and”.

Amendment of First Schedule

42. The First Schedule to the principal Act is amended —

(a) by deleting the word “registered” in paragraph (2) and substituting the word “licensed”; and

5 (b) by deleting the word “subsection” in paragraph (11) and substituting the words “subsections (1)(ea) and”.

Consequential amendments

10 43. The Minister may, by order published in the *Gazette*, repeal or amend any written law which appears to him unnecessary having regard to the provisions of this Act or to be inconsistent with any provision of this Act.

Transitional and savings provisions

15 44. The Authority may, by regulations, prescribe such transitional and savings provisions as it may consider necessary or expedient within ___ years of the date of commencement of this Act.