

**NEW NOTICE ON
REQUIREMENTS FOR REGISTERED INSURANCE BROKERS EXEMPT
FROM HOLDING A FINANCIAL ADVISER'S LICENCE
UNDER SECTION 23(1)(c)**

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NOTICE ON REQUIREMENTS FOR REGISTERED INSURANCE BROKERS EXEMPT FROM HOLDING A FINANCIAL ADVISER'S LICENCE UNDER SECTION 23(1)(c) OF THE FINANCIAL ADVISERS ACT (CAP. 110)

Introduction

1 This Notice is issued pursuant to section 10 read with section 23(4A) and section 58 of the Financial Advisers Act (Cap. 110) [the “Act”] and regulation 2A, regulation 16 read with regulation 17D, and regulation 17E of the Financial Advisers Regulations [the “FAR”].

2 This Notice shall apply to all registered insurance brokers exempt from holding a financial adviser’s licence under section 23(1)(c) of the Act which has commenced the business of providing financial advisory services, other than a registered insurance broker who satisfies all the conditions of regulation 17A(1)(a) to (c) of the FAR.

3 This Notice sets out –

- (i) the methodology which a registered insurance broker shall use for calculating its financial resources;
- (ii) additional professional indemnity insurance requirements; and
- (iii) the standards to be maintained by all registered insurance brokers with respect to the provision of financial advisory services.

Definitions

4 For the purposes of this Notice:

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

“associate” has the same meaning as the term “associate” under the Accounting Standards;

“Authority” means the Monetary Authority of Singapore;

“banking institution” means –

(a) any bank licensed under the Banking Act (Cap. 19); or

- (b) any entity which is approved, licensed, registered or otherwise regulated by a banking regulatory authority in a foreign jurisdiction to carry on banking business as defined in the Banking Act (Cap 19);

“banking regulatory authority” in relation to a foreign jurisdiction, means an authority in the foreign jurisdiction exercising any function that corresponds to a regulatory function of the Authority under the Banking Act (Cap. 19);

“broking staff” has the same meaning as in paragraph 3 of MAS Notice MAS 502 – Minimum Standards and Continuing Professional Development for Insurance Brokers and their Broking Staff ;

“capital investments in relation to a registered insurance broker, means all exposures of a capital nature, including –

- (a) any ordinary share;
- (b) any preference share;
- (c) any instrument treated as regulatory capital in relation to any financial institution approved, licensed, registered or otherwise regulated by a regulatory authority;
- (d) any lending on non-commercial terms or which is not at arm's length; and
- (e) any guarantee issued to third parties for the benefit of subsidiaries or associates on non-commercial terms or which is not at arm's length;

“CFD” means a contract for differences;

“charged asset” means an asset which is subject to a charge under which a third party has a right of retention or sale of the asset upon default of the registered insurance broker;

“chief executive officer” means any person, by whatever name described, who is in the direct employment of, or acting for or by arrangement with, the registered insurance broker, and is principally responsible for the management and conduct of any type of business of the registered insurance broker, including the business of providing any financial advisory service;

“commodity” in relation to a derivative contract, means –

- (a) a financial instrument; or
- (b) a physical commodity;

“derivative contract” includes any warrant, convertible security, forward contract, futures contract, swap, CFD and option;

“financial institution” means an entity or a limited liability partnership the principal activity of which is to carry on business in one or more of the

following activities¹:

- (a) banking business;
- (b) insurance business;
- (c) dealing or trading in securities, exchange-traded derivative contracts or over-the-counter derivative contracts, whether as an agent or on a proprietary basis;
- (d) foreign exchange trading and leveraged foreign exchange trading, whether as an agent or on a proprietary basis;
- (e) advising on corporate finance;
- (f) fund management;
- (g) real estate investment trust management;
- (h) securities financing;
- (i) providing custodial services;
- (j) operating an exchange, trading system or market;
- (k) providing central counterparty services;
- (l) operating a payment system, securities depository, securities settlement system or trade repository;
- (m) providing financial advisory services;
- (n) insurance broking;
- (o) trust business;
- (p) money broking;
- (q) money-changing business;
- (r) remittance business;
- (s) lending;
- (t) factoring;
- (u) leasing;
- (v) provision of credit enhancements; or
- (w) securitisation;

“financial instrument” includes any currency, currency index, interest rate instrument, interest rate index, share, share index, stock, stock index, debenture, bond index, a group or groups of such instruments, any right or interest in such instruments, and any derivative contract;

“forward contract” means a contract the effect of which is that one party to the contract agrees to deliver a specified commodity, or a specified quantity of a specified commodity, to another party to the contract at a specified future time and at a specified price payable at that time, and includes an option on a forward contract but does not include a futures contract;

¹ This includes a financial holding company which is a non-operating company holding a subsidiary that is a banking institution or a subsidiary that carries on insurance business as an insurer. For avoidance of doubt, this includes any entity that is approved, licensed, registered or otherwise regulated by the Authority, or any foreign entity that carries out activities which, if carried out in Singapore, would have to be approved, licensed, registered or otherwise regulated by the Authority.

“futures contract” has the same meaning as in regulation 2 of the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations;

“head of the financial advisory unit” means any person, by whatever name described, who is in the direct employment of, or acting for or by arrangement with, a registered insurance broker, and is principally responsible for the management of the division or branch of the registered insurance broker which carries on the business of providing any financial advisory service;

“over-the-counter derivatives contract” means a derivative contract which is not traded on an approved exchange or an overseas exchange;

“overseas exchange” means a person operating a market outside Singapore which is regulated by a financial services regulatory authority of a country or territory other than Singapore;

“physical commodity” means gold or any produce, goods, article or item other than cash, including any freight or energy products and any index, right or interest in such physical commodity;

“real estate investment trust” means a collective investment scheme –

- (a) that is a trust;
- (b) that invests primarily in real estate and real estate-related assets specified by the Authority in the Code on Collective Investment Schemes; and
- (c) all or any units of which are listed for quotation on a securities exchange.

5 The expressions used in this Notice shall, except where defined in this Notice or where the context otherwise requires, have the same meanings as in section 2 of the Act, section 2 of the Securities and Futures Act (Cap. 289), section 1A of the Insurance Act (Cap. 142) and regulation 2 of the FAR. In case of conflict between the Act, the Securities and Futures Act (Cap. 289), the Insurance Act (Cap. 142) and the FAR, the FAR shall prevail.

6 Any reference to a paragraph is a reference to a paragraph in this Notice unless otherwise specified.

Financial Resources Requirements

7 Under regulation 17E of the FAR, a registered insurance broker shall –

- (a) at all times maintain its financial resources of not less than the stipulated amount in the FAR; and

- (b) if the registered insurance broker fails to comply with the continuing financial requirements or becomes aware that it will fail to comply with the continuing financial requirements, the registered insurance broker shall immediately notify the Authority.

8 A registered insurance broker shall provide a calculation of its financial resources, as at any given date, to the Authority upon request and within such time as may be specified by the Authority.

9 Financial resources in relation to a registered insurance broker, shall be less the sum of the items in paragraph 10 in the latest accounts of the registered insurance broker.

10 For the purpose of paragraph 9, in relation to the whole business of the registered insurance broker, the items are –

- (a) intangible assets;
- (b) future income tax benefits;
- (c) pre-paid expenses;
- (d) charged assets, except to the extent that the registered insurance broker has not drawn down on the credit facility if the charge is created to secure a credit facility, as permitted by the Authority;
- (e) unsecured amounts due from every director, officer, employee, broking staff or representative, or any combination of the foregoing, of the registered insurance broker;
- (f) unsecured amounts owed by every related corporation of the registered insurance broker;
- (g) unsecured loans and advances made by the registered insurance broker, unless a deduction has already been made pursuant to sub-paragraphs (e) or (f) above; and
- (h) capital investments in every subsidiary or associate of the registered insurance broker.

11 A registered insurance broker shall include its redeemable preference share capital in its financial resources only if the redeemable preference share has a redemption period of not less than 2 years when the redeemable preference share is issued and paid up.

Additional Professional Indemnity Insurance Requirements

12 Where a registered insurance broker intends to rely on a professional indemnity insurance policy which will also satisfy the requirement for a professional indemnity insurance policy under regulation 4 of the Insurance (Intermediaries) Regulations —

- (a) the limit of indemnity to be covered under the professional indemnity insurance policy shall be an amount not less than the aggregate of the amounts of the limit of indemnity set out in regulation 17G read with the Fourth Schedule to the FAR, and regulation 4 of the Insurance (Intermediaries) Regulations; and
- (b) the deductible allowed shall be —
 - (i) an amount which is not more than the maximum professional indemnity insurance deductible requirements applicable under the Fourth Schedule to the FAR; or
 - (ii) an amount which is not more than the deductible allowed under regulation 4 of the Insurance (Intermediaries) Regulations,

whichever is the lower.

Minimum Competency Requirements for Chief Executive Officer and Head of the Financial Advisory Unit

13 A registered insurance broker shall ensure that either its chief executive officer or head of the financial advisory unit has a minimum of 10 years of relevant working experience in respect of the financial advisory service(s) that the registered insurance broker intends to provide or provides, of which at least 5 years must have been in a managerial capacity.

14 The registered insurance broker shall also ensure that its chief executive officer or head of the financial advisory unit (as the case may be) who meets the requirement in paragraph 13, possesses acceptable academic qualifications or professional qualifications, having regard to the nature of the duties the chief executive officer or head of the financial advisory unit (as the case may be) has to perform in relation to the registered insurance broker's carrying on a business of providing financial advisory services.

15 For the avoidance of doubt, the chief executive officer of the registered insurance broker remains ultimately responsible for the overall operations of the registered insurance broker, including its business as an insurance broker and of providing financial advisory services.

Effective Date and Transitional

16 This Notice shall take effect on [date] (“the effective date”).

17 Paragraphs 13 and 14 shall not apply to a registered insurance broker which is exempt from holding a financial adviser's licence under section 23(1)(c) of the Act prior to the effective date in respect of its chief executive officer or head of the financial advisory unit (as the case may be), who has been appointed or employed by the registered insurance broker prior to the effective date.