

**NEW FINANCIAL ADVISERS (REMUNERATION AND INCENTIVE)
REGULATIONS**

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FINANCIAL ADVISERS ACT

(CHAPTER 110)

FINANCIAL ADVISERS (REMUNERATION AND INCENTIVE) REGULATIONS 2015

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In exercise of the powers conferred by section 104 of the Financial Advisers Act, the Monetary Authority of Singapore hereby makes the following Regulations:

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Financial Advisers (Remuneration and Incentive) Regulations 2015 and shall come into operation on [date].

Definitions

2. In these Regulations, unless the context otherwise requires –

“accredited investor” has the same meaning as in section 4A(1)(a) of the Securities and Futures Act (Cap. 289);

“direct life insurer” means a direct insurer licensed to carry on life business under the Insurance Act (Cap. 142);

“exempt financial adviser” means a financial adviser who is exempt under section 23(1)(a), (b), (c), (d) or (e) of the Act from holding a financial adviser’s licence;

“expert investor” has the same meaning as in section 4A(1)(b) of the Securities and Futures Act;

“financial adviser” means a licensed financial adviser or an exempt financial adviser;

“incentive” means a payment made or benefit given, whether in cash or otherwise and whether annually or otherwise, to a relevant person or class of relevant persons, as a reward for the sale of a specific investment product or class of specific investment products –

(a) pursuant to an arrangement or agreement, whether oral or in writing and whether express or implied, which is effective for a continuous period of less than a year; and

(b) at a rate or on a variable basis, which is dependent directly or indirectly on any or all of the following –

- (i) the number or value of contracts so arranged or effected;
- (ii) the total amount of premiums paid or payable under contracts of insurance;
- (iii) the total amount of sums insured under contracts of insurance;
- (iv) the total amount of commissions received for the sales of the specific investment product or class of specific investment products; or
- (v) any other factors as may be specified by the Authority;

"institutional investor" has the same meaning as in section 4A(1)(c) of the Securities and Futures Act;

“policy moneys” has the same meaning as in the First Schedule to the Insurance Act;

“pure protection policy” means a life policy in respect of which the following conditions are met –

- (a) the life policy has no surrender value;
- (b) the policy moneys are payable only on death or in respect of incapacity due to injury, sickness or infirmity; and
- (c) the life policy makes no provision for its conversion or extension in a manner which would result in it ceasing to fulfil the condition under paragraph (a) or (b);

“premium payment period” means the period of time over which premiums are paid or payable by the policy owner or insured, as the case may be, to the direct life insurer for a relevant life policy;

“relevant person” means –

- (a) a financial adviser;
- (b) a representative of a financial adviser; or
- (c) a supervisor of a person or class of persons referred to in sub-paragraph (b);

“relevant life policy” means a life policy which –

- (a) premiums are paid or payable on a periodic basis and each periodic payment is for a period of up to one year; and

- (b) policy owner or insured, or both, as the case may be, is a person other than an accredited investor, expert investor or institutional investor;

“specified commissions” in relation to a life policy, means any remuneration at a rate or on a variable basis, payable to or received by, a relevant person or class of relevant persons –

- (a) in respect of the provision of any of the following financial advisory services by a financial adviser or representative, or a class of financial advisers or representatives–
 - (i) advising others (other than in the manner specified in sub-paragraph (ii)), either directly or through publications or writings, and whether in electronic, print or other form, concerning any life policy;
 - (ii) advising others by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning any life policy;
 - (iii) arranging of any contract of insurance in respect of life policies; and
- (b) which is directly attributable, wholly or partly, to the issuance of the life policy by an insurer;

“total specified commissions” in relation to a relevant life policy, means the total amount of specified commissions payable to or received by a relevant person or class of relevant persons, in respect of the issuance of the relevant policy.

PART II

SPECIFIED COMMISSIONS

Restriction on payment and receipt of specified commissions

3. – (1) No relevant person shall receive specified commissions in relation to any relevant life policy unless –

- (a) the total specified commissions are received –
 - (i) over a period of at least six years from the date on which the relevant life policy is issued; or
 - (ii) over the premium payment period of the relevant life policy, whichever is the shorter (referred to in this paragraph as the relevant period);
- (b) the specified commissions received within one year from the date on which –
 - (i) the relevant life policy is issued; or
 - (ii) the premium payment period of the relevant life policy commenced, whichever is the later, do not exceed 55% of the total specified commissions; and

(c) the specified commissions are received by the relevant person at least once every year in the relevant period.

(2) No financial adviser shall pay specified commissions in relation to any relevant life policy to –

- (a) another financial adviser;
- (b) a representative;
- (c) a supervisor; or
- (d) a class of persons referred to in sub-paragraph (a), (b) or (c),

unless –

- (a) the total specified commissions are payable –
 - (i) over a period of at least six years from the date on which the relevant life policy is issued; or
 - (ii) over the premium payment period of the relevant life policy, whichever is the shorter (referred to in this paragraph as the relevant period);
- (b) the specified commissions payable within one year from the date on which –
 - (i) the relevant life policy is issued; or
 - (ii) the premium payment period of the relevant life policy commenced, whichever is the later, do not exceed 55% of the total specified commissions;

and

(c) the specified commissions are payable at least once every year in the relevant period.

(3) Any financial adviser who contravenes paragraph (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$[] and, in the case of a continuing offence, to a further fine not exceeding \$[] for every day or part thereof during which the offence continues after conviction.

(4) Any representative or supervisor who contravenes paragraph (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$[] and, in the case of a continuing offence, to a further fine not exceeding \$[] for every day or part thereof during which the offence continues after conviction.

(5) This Regulation shall not apply to the payment of specified commissions by financial advisers or the receipt of specified commissions by relevant persons, in relation to any relevant life policy which date of issue, date on which it takes effect, or date on which its cover has commenced, whichever is the latest, is before [*date from which the regulations come into operation*].

(6) Any financial adviser which is bound by paragraph (2) shall comply with paragraph (2) notwithstanding any other duty imposed on the financial adviser by any rule of law, written law or contract.

(7) Any financial adviser shall not in carrying out any act in compliance with paragraph (2) be treated as being in breach of any such rule of law, written law or contract.

PART III

INCENTIVES

Restriction on provision and receipt of incentives

4. – (1) Subject to paragraph (3), no financial adviser shall provide any incentives to –

- (a) another financial adviser;
- (b) a representative;
- (c) a supervisor; or
- (d) a class of persons referred to in paragraphs (a), (b) or (c),

in relation to the provision of any financial advisory service to any client who is not an accredited investor, an expert investor or an institutional investor.

(2) Subject to paragraph (3), no relevant person shall receive any incentives in relation to the provision of any financial advisory service to any client who is not an accredited investor, an expert investor or an institutional investor.

(3) Paragraphs (1) and (2) shall not apply to incentives provided or received in respect of the provision of any or all of the following types of financial advisory services in respect of the following specific investment product or class of specific investment products to any client who is not an accredited investor, an expert investor or an institutional investor –

- (a) advising others (other than in the manner specified in sub-paragraph (b)), either directly or through publications or writings, and whether in electronic, print or other form, concerning any pure protection policy or class of pure protection policies;
- (b) advising others by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning any pure protection policy or class of pure protection policies; or
- (c) arranging of any contract of insurance in respect of any pure protection policy or class of pure protection policies.

(4) Any financial adviser who contravenes paragraph (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$[] and, in the case of a continuing offence, to a further fine not exceeding \$[] for every day or part thereof during which the offence continues after conviction.

(5) Any representative or supervisor who contravenes paragraph (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$[] and, in the case of a continuing offence, to a further fine not exceeding \$[] for every day or part thereof during which the offence continues after conviction.

(6) Any financial adviser which is bound by paragraph (1) shall comply with paragraph (1) notwithstanding any other duty imposed on the financial adviser by any rule of law, written law or contract.

(7) Any financial adviser shall not in carrying out any act in compliance with paragraph (1) be treated as being in breach of any such rule of law, written law or contract.

Made this []th day of [] 2015.

RAVI MENON
Managing Director,
Monetary Authority of Singapore.