

SECURITIES AND FUTURES ACT  
(CHAPTER 289, SECTIONS 2(1), 84(3), 85(1) AND (4), 86(3), 90(2), 91, 93(1),  
94(1), 95(1), 96(2), 97(2), 97A(3), 97B(1), 99(4), 99A(1) AND (4), [99AC(2),  
99C(1),] 99D(2), (4) AND (8), 99E(1), (3) AND (5), 99F(1) AND (3), 99H(1), (4)  
AND (5), 99K, 99L(2) AND (5), 99M(1), 100(1), 101C(2), 102(4) AND (5), 104,  
123, 337(1), 339(3) AND 341)  
SECURITIES AND FUTURES (LICENSING AND CONDUCT OF BUSINESS)  
REGULATIONS

**Rg 10**

**G.N. No. S 457/2002**

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SECOND SCHEDULE

Regulation 14

EXEMPTIONS FROM SECTIONS 82(1) AND 99B(1) OF ACT

**Definitions**

1. In this Schedule –

“agent”, in relation to a member of Lloyd’s, “Lloyd’s”, “member of Lloyd’s” and “Service Company” have the same meanings as in regulation 2 of the Insurance (Lloyd’s Asia Scheme) Regulations (Rg 9);

“base capital”, in relation to a corporation, means the sum of —

(a) the following items in the latest accounts of the corporation:

- (i) paid-up ordinary share capital; and
- (ii) paid-up irredeemable and non-cumulative preference share capital;  
and

*[S 170/2013 wef 28/03/2013]*

(b) any unappropriated profit or loss in the latest audited accounts of the corporation,

less any interim loss in the latest accounts of the corporation and any dividend that has been declared since the date of the latest audited accounts of the corporation;

*[S 385/2012 wef 07/08/2012]*

“block futures contract” means a bilaterally-negotiated futures contract which meets the minimum trade size determined, and to be reported to the approved exchange, recognised market operator or overseas exchange, in accordance with the business rules of that approved exchange, recognised market operator or overseas exchange, as the case may be;

“connected person”, in relation to any individual, means —

- (a) his spouse, son, adopted son, step-son, daughter, adopted daughter, step-daughter, father, step-father, mother, step-mother, brother, step-brother, sister or step-sister; or
- (b) a firm or corporation in which he or any of the persons referred to in paragraph (a) has control of not less than 50% of the voting power, whether such control is exercised individually or jointly;

“designated market-maker” means a corporation who —

- (a) carries on business to deal in designated products as a market-maker; and
- (b) is approved as a designated market-maker by the Singapore Exchange Securities Trading Limited, in accordance with its business rules;

“designated products” means —

- (a) exchange traded fund interests; or
- (b) structured warrants,

which have received approval in-principle for listing and quotation on, or are listed for quotation on, the Singapore Exchange Securities Trading Limited;

“exchange traded fund interest” means any unit in a collective investment scheme concerned with the acquisition, holding, management or disposal of a portfolio of predetermined constituent assets in predetermined proportions; being a unit that is —

- (a) listed for quotation, or has received approval in-principle for listing and quotation, on any approved exchange; and
- (b) created and redeemed as part of a block of units in the collective investment scheme in exchange for the constituent assets in the portfolio;

“Finance and Treasury Centre” means an approved Finance and Treasury Centre under section 43G of the Income Tax Act (Cap. 134);

“headquarters company” means an approved headquarters company under section 43E of the Income Tax Act;

“investment contract” means any contract, scheme or arrangement which in substance and irrespective of the form thereof involves the investment of money in or under such circumstances that the investor acquires or may acquire an interest in or right in respect of property which under or in accordance with the terms of investment will, or may at the option of the investor, be used or employed in common with any other interest in or right in respect of property acquired in or under like circumstances;

“irredeemable and non-cumulative preference share capital” means preference share capital consisting of preference shares that satisfy all of the following requirements:

- (a) the principal of the shares is perpetual;
- (b) the shares are not callable at the initiative of the issuer of the shares or the shareholders, and the principal of the shares is never repaid outside of liquidation of the issuer, except in the case of a repurchase or other manner of reduction of share capital that is initiated by the issuer and permitted under written law; and
- (c) the issuer has full discretion to cancel dividend payments, and —
  - (i) the cancellation of dividend payments is not an event of default of the issuer under any agreement;
  - (ii) the issuer has full access to cancelled dividend payments to meet its obligations as they fall due; and
  - (iii) the cancellation of dividend payments does not result in any restriction being imposed on the issuer under any agreement, except in relation to dividend payments to ordinary shareholders;

*[S 170/2013 wef 28/03/2013]*

“market-maker” means a corporation which —

- (a) through a facility, at a place or otherwise, regularly quotes the prices at which it proposes to acquire or dispose of designated products for its own account; and
- (b) is ready, willing and able to effect transactions in the designated products at the quoted prices;

“net head office funds”, in relation to a foreign company, means the net liability of the Singapore branch of that foreign company to its head office and any other branches outside of Singapore;

*[S 385/2012 wef 07/08/2012]*

“order-filler” means an individual who is registered as such with an approved exchange for the sole purpose of entering into contracts on the floor of that approved exchange on behalf of members of that approved exchange ;

“provider”, in relation to a collective investment scheme, includes –

- (a) the manager of the scheme;
- (b) the trustee of the scheme; and
- (c) any person which is authorised by the manager or the trustee of the scheme to receive a customer’s money or property on its behalf.

“qualified arrangement” means any of the arrangements referred to in paragraphs (i) to (xii) of the definition of “collective investment scheme” in section 2(1) of the Act;

“quote” means to display or provide on an organised market of an approved exchange information concerning the particular prices or particular consideration at which offers or invitations to sell, purchase or exchange issued specified products are made on that organised market , being offers or invitations that are intended or may reasonably be expected to result, directly or indirectly, in the making or acceptance of offers to sell, purchase or exchange issued specified products ;

“relevant offence” means —

- (a) an offence, whether under the law of Singapore or elsewhere, in connection with the promotion, formation or management of a corporation, or involving fraud or dishonesty, or the conviction for which involved a finding that the offender had acted fraudulently or dishonestly;
- (b) an offence under the Companies Act involving lack of diligence in the discharge of the duties of a director of a company;
- (c) an offence under the Act or any regulations made under the Act; or
- (d) an offence under the Banking Act (Cap. 19), the Commodity Trading Act (Cap. 48A), the Finance Companies Act (Cap. 108), the Insurance Act (Cap. 142), the Monetary Authority of Singapore Act (Cap. 186), the Money-changing and Remittance Businesses Act (Cap. 187), the Penal Code (Cap. 224), the Financial Advisers Act (Cap. 110), or any subsidiary legislation made under any of these Acts;

“specified exchange-traded derivatives contracts” means an exchange-traded derivatives contract that is not a futures contract;

“specified products borrowing and lending facility” means the facility established and operated by the Central Depository (Pte) Ltd for the lending and borrowing of specified products ;

“special purpose corporation” means a corporation established to acquire and own an aircraft which is to be leased out;

“structured warrant” means an instrument issued by a financial institution on a commodity or an underlying financial instrument not issued by that financial institution, which gives the holder the right —

- (a) to purchase from, or sell to, the financial institution that commodity or underlying financial instrument in accordance with the terms of issue of the instrument; or
- (b) to receive from the financial institution a cash payment calculated by reference to the fluctuations in the value or price of that commodity or underlying financial instrument and in accordance with the terms of issue of the instrument;

“underlying financial instrument” includes any financial instrument and units in a collective investment scheme.

**Exemption from requirement to hold capital markets services licence to deal in capital markets products that are securities, units in a collective investment scheme and specified exchange-traded derivatives contracts**

2. —(1) The following persons are exempt from the requirement to hold a capital markets services licence to carry on business in dealing in capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts, subject to the conditions and restrictions specified:

- (a) a person when carrying on business in dealing in capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts for his own account, or an account belonging to and maintained wholly for the benefit of a related corporation, and with or through —
  - (i) the holder of a capital markets services licence to deal in capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts ;
  - (ii) a bank licensed under the Banking Act;
  - (iii) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act;
  - (iv) a bank licensed, registered, approved or otherwise regulated under the laws of a jurisdiction outside Singapore to conduct banking business, but only in relation to securities, units in a collective investment

scheme, or specified exchange-traded derivatives contracts, that are not quoted on an approved exchange ;

- (v) a corporation or firm licensed or registered to carry on business in dealing in capital markets products that are securities, units in a collective investment scheme, or specified exchange-traded derivatives contracts, or any combination of the foregoing, as the case may be, under the laws of a jurisdiction outside Singapore, but only in relation to securities, units in a collective investment scheme, or specified exchange-traded derivatives contracts, that are not quoted on an approved exchange ; or
  - (vi) the Central Depository (Pte) Ltd pursuant to its specified products borrowing and lending facility;
- (b) a person whose dealing in capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts is solely incidental to his carrying on business in —
- (i) fund management;
  - (ii) providing custodial services; or
  - (iii) product financing;
- (d) the Central Depository (Pte) Ltd in respect of its dealing in capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts —
- (i) that is solely incidental to its business of providing depository services for securities, units in a collective investment scheme or specified exchange-traded derivatives contracts; or
  - (ii) that is done by reason only of its entering into a transaction pursuant to its specified products borrowing and lending facility , and in compliance with conditions specified in writing by the Authority;
- (e) a person when carrying on business in dealing in bonds with —
- (i) an accredited investor, institutional investor or expert investor;
  - (ii) a person whose business involves the acquisition and disposal of or holding of specified products (whether as principal or agent);
- (f) a corporation when subscribing for securities, units in a collective investment scheme, or specified exchange-traded derivatives contracts on behalf of a customer as nominee, provided that such corporation —
- (i) has no interest in the securities, units in a collective investment scheme or specified exchange-traded derivatives contracts, as the case may be, subscribed for other than as a bare trustee; and

- (ii) is a wholly-owned subsidiary of —
- (A) the holder of a capital markets services licence to deal in capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts, or any combination of the foregoing ;
  - (B) a bank licensed under the Banking Act (Cap. 19);
  - (C) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186);
  - (D) a finance company licensed under the Finance Companies Act (Cap. 108);
  - (E) an approved exchange ;
  - (F) an approved holding company ; or
  - (G) an approved clearing house ;
- (g) a person approved by the Authority when, pursuant to the establishment and promotion of an aircraft leasing business in Singapore, he deals in the shares of a special purpose corporation with —
- (i) a bank licensed under the Banking Act (Cap. 19), a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186), or such other financial institution as may be approved by the Authority; or
  - (ii) a corporation with total net assets exceeding \$10 million in value or its equivalent in value in a foreign currency as determined in accordance with the most recent audited balance-sheet of the corporation or, in the case of a corporation which is not required to prepare audited accounts, a balance-sheet certified by the corporation as giving a true and fair view of the state of affairs of the corporation as at the end of the period to which it relates,
- (referred to in this sub-paragraph as a designated institution) if, and only if, such dealing in shares is subject to a prohibition that the designated institution may not subsequently dispose of the shares of the special purpose corporation except to another designated institution;
- (h) a trustee of a qualified arrangement in respect of securities, units in a collective investment scheme, or specified exchange-traded derivative contracts whose dealing in capital markets products that are securities, units in a collective investment scheme, or specified exchange-traded derivatives contracts is solely incidental to the management and administration of such arrangement;

- (i) a designated market-maker when carrying on business in dealing in capital markets products that are designated products for its own account or for the account of any of its related corporations;
- (j) a financial adviser licensed under the Financial Advisers Act (Cap. 110), or a person exempted under section 23 or 100 of that Act, and its representatives in respect of providing the financial advisory service of advising others, either directly or through publications or writings, and whether in electronic, print or other form, concerning any securities, units in a collective investment scheme, and specified exchange-traded derivative contracts that are specified products, and whose business of dealing ~~in capital markets products that are units in a collective investment scheme~~ is solely incidental to its provision of that financial advisory service in respect of any securities, units in a collective investment scheme, and specified exchange-traded derivative contracts that are specified products;

(k) any responsible person for a collective investment scheme —

- (i) that is authorised under section 286 of the Act;
- (ii) that is recognised under section 287 of the Act; or
- (iii) where the units of the scheme have been, is or will be, offered in reliance on an exemption under Subdivision (4) of Division 2 of Part XIII of the Act,

in respect of his dealing in capital markets products being —

- (A) units of that scheme or the underlying capital markets products that comprise the investment of funds under that scheme, provided that such responsible person is also the holder of a capital markets services licence, or an exempt person, in respect of fund management; or
- (B) units of that scheme, provided that the dealing is effected through any of the following persons:
  - (BA) the holder of a capital markets services licence to deal in capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts, or any combination of the foregoing ;
  - (BB) an exempt person in respect of dealing in capital markets products that are units of any collective investment scheme;
  - (BC) a financial adviser licensed under the Financial Advisers Act (Cap. 110) referred to in subparagraph 1(j); or

(BD) an exempt financial adviser as defined in the Financial Advisers Act referred to in sub-paragraph 1(j).

[S 373/2005 wef 01/07/2005]

(l) a person when carrying on business in dealing capital markets products that are units in a collective investment scheme for a customer who is —

- (i) an institutional investor;
- (ii) any of its related corporation; or
- (iii) any of its connected person;.

(m) a corporation carrying on business in fund management, in respect of dealing in units of a collective investment scheme, in relation to collective investment schemes that is managed by the corporation or any of its related corporations;

(n) a person who carries on business in dealing in capital markets products that are units in a collective investment scheme which property does not comprise of any capital markets products, and of which all of the participants are qualified investors

(2) For the purpose of sub-paragraph (1)(j) —

(a) regulations 39(3), 44, 46, 46A, 47 and 47B of these Regulations, with the necessary modifications, apply to a person exempted under sub-paragraph (1)(j) in respect of its business in dealing in capital markets products that are securities, units in a collective investment scheme, and specified exchange-traded derivatives contracts that are specified products;

(b) where the person exempted under sub-paragraph (1)(j) is a licensed financial adviser or any of its representatives, in connection with its dealing in capital markets products that are securities, units in a collective investment scheme, and specified exchange-traded derivatives contracts that are specified products, receives client's money or property, —

(i) such money or property shall be handed over to—

- (A) the provider of the collective investment scheme;
- (B) a holder of a capital markets services licence to provide custodial services, which is authorised by the client to receive the client's money or property; or
- (C) a person exempt under regulation 6 of this Schedule from holding a capital markets services licence for providing custodial services which is authorised by the client to receive the client's money or property,

no later than the business day immediately following the day on which the licensed financial adviser or representative receives the money or property (referred to in this paragraph as specified date);

- (ii) the licensed financial adviser or any of its representatives may hand over its or his client's money or property to a person referred to in sub-paragraph (2)(b)(i)(A), (B) or (C) after the specified date if, but only if, he has the client's prior written consent to do so;
  - (iii) a licensed financial adviser or any of its representative shall not, in its dealing in capital markets products that are units in a collective investment scheme, receive clients money or property in the form of cash or any cheque made payable to any person (other than a person referred to in sub-paragraph (2)(b)(i)(A), (B) or (C)), except where the cash or cheque is wholly for services rendered by the licensed financial adviser or representative; and
- (c) where the person exempted under sub-paragraph (1)(j) passes on to another holder of a capital markets service licence, or a person exempted under section 99(1)(a) or (b) of the Act in respect of the regulated activity of dealing in capital markets products, a customer's order to purchase or sell securities, units in a collective investment scheme which are listed for quotation on an approved exchange, and specified exchange-traded derivatives contracts that are specified products, the person shall –
- (i) provide a written disclosure to the customer in respect of the potential risks associated with the purchase or sale of the units in the collective investment scheme on the approved exchange, including the risk of delay in the execution of the order, and obtain the customer's written acknowledgement of the disclosure; and
  - (ii) maintain a record of all written acknowledgements received from its customers in the English language.

### **Exemption from requirement to hold capital markets services licence to deal in capital markets products that are futures contracts**

3.—(1) The following persons are exempt from the requirement to hold a capital markets services licence to carry on business in dealing in capital markets products that are futures contracts, subject to the conditions and restrictions specified:

- (a) a person when carrying on business in for his own account or an account belonging to and maintained wholly for the benefit of a related corporation or connected person;
- (b) a person whose trading in futures contracts is solely incidental to his carrying on business in fund management;
- (c) an order-filler, provided that he shall not be or shall cease to be exempted if —

- (i) he is or becomes a representative or employee of the holder of a capital markets services licence to deal in capital markets products that are futures contracts;
- (ii) he is or becomes an undischarged bankrupt whether in Singapore or elsewhere; or
- (iii) he has been convicted of a relevant offence.

(d) a person who –

- (i) carries on business in Singapore in dealing in capital markets products that are futures contracts only with accredited investors, expert investors, or institutional investors;
- (ii) deals only in block futures contracts;
- (iii) does not carry any customer's positions, margin or account in its books;
- (iv) does not accept money or assets from any customer as settlement of, margin for, or to guarantee or secure, any futures contract entered into by that customer;
- (v) is not, whether as principal or agent, a party to any futures contract;
- (vi) is not a member of any approved exchange or approved clearing house which provides the person with the rights to trade on-screen or clear with the approved exchange or approved clearing house; and
- (vii) is registered with the Authority in accordance with sub-paragraph (6), and the registration is and continues to be published on the Authority's website.

(2) For the purposes of sub-paragraph (1)(d) –

(a) a person otherwise exempted under sub-paragraph (1)(d) shall not be or shall cease to be so exempted if he also carries on business in dealing in capital markets products that are futures contracts other than in accordance with sub-paragraph (1)(a), (b), (c) or (d), as the case may be.

(b) A person otherwise exempted under sub-paragraph (1)(d) shall not be or shall cease to be so exempted if the person –

- (i) is or becomes the holder of a capital markets services licence to deal in capital markets products that are futures contracts;
- (ii) has not commenced business in dealing in capital markets products that are futures contracts in accordance with sub-paragraph (1)(d) within 6 months from the date of its registration by the Authority as a Registered Futures Broker under sub-paragraph (6); or
- (iii) has ceased to carry on business in dealing in capital markets products that are futures contracts in accordance with sub-paragraph (1)(d), and

has not resumed business in the same regulated activity in accordance with that sub-paragraph, within a continuous period of 6 months from the date of cessation.

(3) An individual shall not be or shall cease to be so exempted from the requirement to hold a capital markets services licence to carry on business in dealing in capital markets products that are futures contracts if –

- (a) he is or becomes a representative or employee of the holder of a capital markets services licence to deal in capital markets products that are futures contracts;
- (b) he is or becomes an undischarged bankrupt whether in Singapore or elsewhere; or
- (c) he has been convicted of a relevant offence.

(4) A corporation otherwise exempted under sub-paragraph (1)(d) shall not be or shall cease to be so exempted if –

- (a) the corporation or its substantial shareholder is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
- (b) execution against the corporation or its substantial shareholder in respect of a judgment debt has been returned unsatisfied in whole or in part;
- (c) a receiver, a receiver and manager, a judicial manager or such other person having the powers and duties of a receiver, receiver and manager or judicial manager, has been appointed whether in Singapore or elsewhere in relation to, or in respect of, any property of the corporation or its substantial shareholder;
- (d) the corporation or its substantial shareholder has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with its creditors, being a compromise or scheme of arrangement that is still in operation; or
- (e) the corporation or its substantial shareholder has been convicted of a relevant offence.

(5) A corporation which is exempted under sub-paragraph (1)(d) shall –

- (a) take reasonable measures to verify that the persons on behalf of whom he carries on business in dealing in capital markets products that are futures contracts are only accredited investors, expert investors, or institutional investors; and
- (b) ensure that proper records are kept of any document evidencing the status of such persons.

(6) A corporation which seeks to be exempted under sub-paragraph (1)(d) shall register with the Authority as a Registered Futures Broker by lodging with the Authority a notice of commencement of its business in Form xx, not later than 14 days after the

commencement of its business in dealing in capital markets products that are futures contracts.

(7) The Authority may refuse to register a corporation under subparagraph (6) unless the corporation has demonstrated to the Authority's satisfaction that it is able to fulfil the requirements under sub-paragraph 1(d) and comply with subparagraphs (8), (9) and (11).

(8) A Registered Futures Broker must lodge with the Authority –

- (a) a notice of change in particulars in Form xx providing any change in the particulars in the notice under sub-paragraph (6), not later than 14 days after the date of the change;
- (b) a notice of cessation of business in Form xx not later than 14 days after the cessation of his business in dealing in capital markets products that are futures contracts; and
- (c) an annual declaration in Form xx within 14 days after the end of its financial year.

(9) A corporation shall not represent itself out as a Registered Futures Broker, unless

- (a) it has fulfilled all the requirements in sub-paragraph (1)(d); and
- (b) the registration of the corporation as a Registered Futures Broker is and continues to be published on the Authority's website.

(10) The Authority may cancel the registration of a corporation under sub-paragraph (6) if the person is issued with a capital markets services licence in dealing in capital markets products that are futures contracts.

(11) A Registered Futures Broker shall –

- (a) ensure that it is able to pay its debts in full as they fall due and that the value of its assets shall not be less than the value of its liabilities (including contingent liabilities) at all times; and
- (b) at all times employ at least 2 persons in Singapore, each of whom has at least 5 years' experience that is relevant to its business in dealing in capital markets products that are futures contracts.

(12) If a corporation which carries on business in dealing in capital markets products that are futures contracts in reliance on sub-paragraph (1)(d) fails to meet any of the criteria in sub-paragraphs (1)(d)(i) to (1)(d)(vi) or to comply with subparagraph (8), (9) or (11), or becomes aware that it will likely fail to meet any of those criteria or to comply with sub-paragraphs (8), (9) or (11), it shall immediately notify the Authority.

(13) If the Authority becomes aware that a corporation which carries on business in dealing in capital markets products that are futures contracts in reliance on sub-

paragraph (1)(d) fails to meet any of the criteria in sub-paragraphs (1)(d)(i) to (1)(d)(vi) or to comply with sub-paragraph (8), (9) or (11), the Authority may direct the Registered Futures Broker to operate its business in such manner and on such conditions as the Authority may impose, and the corporation to whom such direction is issued shall comply with the direction.

(14) A Registered Futures Broker shall, in respect of each of its financial year –

- (a) prepare a true and fair profit and loss account and a balance-sheet made up to the last day of the financial year; and
- (b) lodge that account and balance-sheet, together with a certification from its auditor that the Registered Futures Broker has complied with the criteria in sub-paragraphs (1)(d)(i) to (1)(d)(vi) and paragraph 11, with the Authority within 5 months, or such extension thereof permitted by the Authority, after the end of its financial year.

(15) Each corporation exempted under sub-paragraph (1)(d) shall furnish to the Authority, at such time and in such manner as the Authority may direct, all such information concerning his business in dealing in capital markets products that are futures contracts, as the Authority may reasonably require.

### **Exemption from requirement to hold capital markets services licence to deal in capital markets products that are over-the-counter derivatives contracts**

3A.—(1) The following persons are exempt from the requirement to hold a capital markets services licence to carry on business in dealing in capital markets products that are over-the-counter derivatives contracts, subject to the conditions and restrictions specified:

- (a) a person who carries on business in dealing in capital markets products that are over-the-counter derivatives contracts for his own account or an account belonging to and maintained wholly for the benefit of a related corporation, and with another related corporation;
- (b) a person who carries on business in dealing in capital markets products that are over-the-counter derivatives contracts which the underlying thing is a commodity, with accredited investors, expert investors, or institutional investors;
- (c) a person who –
  - (i) carries on business in dealing in capital markets products that are over-the-counter derivatives contracts for his own account or an account belonging to and maintained wholly for the benefit of a related corporation;
  - (ii) enters into over-the-counter derivatives contracts with —

- (A) the holder of a capital markets services licence to deal in capital markets products that are over-the-counter derivatives contracts;
  - (B) a bank licensed under the Banking Act;
  - (C) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act;
  - (D) a bank licensed, registered, approved or otherwise regulated under the laws of a jurisdiction outside Singapore to conduct banking business; or
  - (E) a corporation or firm licensed or registered to carry on business in dealing in capital markets products that are over-the-counter derivatives contracts under the laws of a jurisdiction outside Singapore; and
- (iii) does not receive a spread or other remuneration in connection with dealing in capital markets products that are over-the-counter derivatives contracts.
- (d) a person whose dealing in capital markets products that are over-the-counter derivatives contracts is solely incidental to his carrying on business in fund management;
- (e) a person who –
- (i) carries on business in Singapore in dealing in capital markets products that are over-the-counter derivatives contracts only with accredited investors, expert investors, or institutional investors;
  - (ii) does not carry any customer's position in over-the-counter derivatives contracts, margin or account in its books;
  - (iii) does not accept money or assets from any customer as settlement of, margin for, or to guarantee or secure, any over-the-counter derivatives contract entered into by that customer;
  - (iv) is not, whether as principal or agent, a party to any over-the-counter derivatives contract;
  - (v) is not a member of any approved exchange or approved clearing house which provides the person with the rights to trade on-screen or clear with the approved exchange or approved clearing house; and
  - (vi) is registered with the Authority in accordance with sub-paragraph (8) and the registration is and continues to be published on the Authority's website;
- (f) an approved global trading company, within the meaning of section 43P(3) of the Income Tax Act (Cap. 134), which carries on business in dealing in capital

markets products that are over-the-counter derivatives contracts which underlying thing is a commodity;

(g) a corporation when subscribing for over-the-counter derivatives contracts on behalf of a customer as nominee, provided that such corporation —

(i) has no interest in the over-the-counter derivatives contracts subscribed for other than as a bare trustee; and

(ii) is a wholly-owned subsidiary of —

(A) the holder of a capital markets services licence to deal in capital markets products that are over-the-counter derivatives contracts;

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

(C) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186);

(D) a finance company licensed under the Finance Companies Act (Cap. 108);

(E) an approved exchange;

(F) an approved holding company; or

(G) an approved clearing house;

(h) a trustee of a qualified arrangement in respect of over-the-counter derivatives contracts, whose dealing in capital markets products that are over-the-counter derivatives contracts is solely incidental to the management and administration of such arrangement;

(2) For the purposes of sub-paragraph (1)(c)(iii), “remuneration” includes monetary or non-monetary incentive, benefit or reward, as the case may be.

(3) For the purposes of —

(a) sub-paragraph (1)(b), a person otherwise exempted under sub-paragraph (1)(b) shall not be or shall cease to be so exempted if he also carries on business in dealing in capital markets products that are over-the-counter derivatives contracts which underlying thing is a commodity other than in accordance with sub-paragraph (1)(b);

(b) sub-paragraph (1)(f), a person otherwise exempted under sub-paragraph (1)(f) shall not be or shall cease to be so exempted if he also carries on business in dealing in capital markets products that are not over-the-counter derivatives contracts which underlying thing is a commodity; and

(c) sub-paragraphs (1)(a), (c), and (d), a person otherwise exempted under sub-paragraphs (1)(a), (c) or (d) shall not be or shall cease to be so exempted if he also carries on business in dealing in capital markets products that are over-

the-counter derivatives contracts other than in accordance with sub-paragraph (1)(a), (c) or (d), as the case may be.

(4) A person otherwise exempted under sub-paragraph (1)(e) shall not be or shall cease to be so exempted if –

- (a) he is or becomes the holder of a capital markets services licence to deal in capital markets products that are over-the-counter derivatives contracts;
- (b) he has not commenced business in dealing in capital markets products that are over-the-counter derivatives contracts within 6 months from the date of its registration by the Authority as a Registered Over-the-counter Derivatives Broker under sub-paragraph (8); or
- (c) he has ceased to carry on business in dealing in capital markets products that are over-the-counter derivatives contracts, and has not resumed business in the same regulated activity in accordance with that sub-paragraph, within a continuous period of 6 months from the date of cessation.

(5) An individual shall not be or shall cease to be so exempted from the requirement to hold a capital markets services licence to carry on business in dealing in capital markets products that are over-the-counter derivatives contracts if –

- (a) he is or becomes a representative or employee of the holder of a capital markets services licence in dealing in capital markets products that are over-the-counter derivatives contracts;
- (b) he is or becomes an undischarged bankrupt whether in Singapore or elsewhere; or
- (c) he has been convicted of a relevant offence.

(6) A corporation otherwise exempted under sub-paragraph (1)(e) shall not be or shall cease to be so exempted if –

- (a) the corporation or its substantial shareholder is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
- (b) execution against the corporation or its substantial shareholder in respect of a judgment debt has been returned unsatisfied in whole or in part;
- (c) a receiver, a receiver and manager, a judicial manager or such other person having the powers and duties of a receiver, receiver and manager or judicial manager, has been appointed whether in Singapore or elsewhere in relation to, or in respect of, any property of the corporation or its substantial shareholder;
- (d) the corporation or its substantial shareholder has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with its creditors, being a compromise or scheme of arrangement that is still in operation; or

- (e) the corporation or its substantial shareholder has been convicted of a relevant offence.
- (7) A corporation which is exempted under sub-paragraph (1)(e) shall –
- (a) take reasonable measures to verify that the persons on behalf of whom he carries on business in dealing in capital markets products that are over-the-counter derivatives contracts are only accredited, expert investors, or institutional investors; and
  - (b) ensure that proper records are kept of any document evidencing the status of such persons.
- (8) A corporation which seeks to be exempted under sub-paragraph (1)(e) shall register with the Authority as a Registered Over-the-counter Derivatives Broker by lodging with the Authority a notice of commencement of its business in Form xx not later than 14 days after the commencement of its business in dealing in capital markets products that are over-the-counter derivatives contracts.
- (9) The Authority may refuse to register a corporation under subparagraph (8) unless the corporation has demonstrated to the Authority's satisfaction that it is able to fulfil the requirements under sub-paragraphs 1(e), (10), (11) and (13).
- (10) A Registered Over-the-counter Derivatives Broker must lodge with the Authority -
- (a) a notice of change in particulars in Form xx, providing any change in the particulars in the notice under sub-paragraph (8), not later than 14 days after the date of the change;
  - (b) a notice of cessation of business in Form xx not later than 14 days after the cessation of his business in dealing in capital markets products that are over-the-counter derivatives contracts; and
  - (c) an annual declaration in Form xx within 14 days after the end of its financial year.
- (11) A corporation shall not hold itself out as a Registered Over-the-counter Derivatives Broker, unless –
- (a) it has fulfilled all the requirements in sub-paragraph (1)(e); and
  - (b) the registration of the corporation as a Registered Over-the-counter Derivatives Broker is and continues to be published on the Authority's website.
- (12) The Authority may cancel the registration of a corporation under sub-paragraph (8) if the corporation is issued with a capital markets services licence in dealing in capital markets products that are over-the-counter derivatives contracts.
- (13) A Registered Over-the-counter Derivatives Broker shall –

- (a) ensure that it is able to pay its debts in full as they fall due and that the value of its assets shall not be less than the value of its liabilities (including contingent liabilities) at all times; and
- (b) all times employ at least 2 persons in Singapore, each of whom has at least 5 years' experience that is relevant to its business in dealing in capital markets products that are over-the-counter derivatives contracts

(14) If a corporation which carries on business in dealing in capital markets products that are over-the-counter derivatives contracts in reliance on sub-paragraph (1)(e) fails to meet any of the criteria in sub-paragraphs (1)(e)(i) to (1)(e)(v) or to comply with sub-paragraph (10), (11) or (13), or becomes aware that it will likely fail to meet any of those criteria or to comply with sub-paragraph (10), (11), (13), it shall immediately notify the Authority.

(15) If the Authority becomes aware that a corporation which carries on business in dealing in capital markets products that are over-the-counter derivatives contracts in reliance on sub-paragraph (1)(e) fails to meet any of the criteria in subparagraphs (1)(e)(i) to (1)(e)(v) or to comply with sub-paragraphs (10), (11) or (13), the Authority may direct the Registered Over-the-counter Derivatives Broker to operate its business in such manner and on such condition as the Authority may impose, and the corporation to whom such direction is issued shall comply with the direction.

(16) A Registered Over-the-counter Derivatives Broker shall, in respect of its each financial year –

- (a) prepare a true and fair profit and loss account and a balance-sheet made up to the last day of the financial year; and
- (b) lodge that account and balance-sheet, together with a certification from its auditor that the Registered Over-the-counter Derivatives Broker has complied with the criteria in sub-paragraphs (1)(e)(i) to (1)(e)(v) and paragraph (13), with the Authority within 5 months, or such extension thereof permitted by the Authority, after the end of its financial year.

(17) Each person exempted under sub-paragraph (1)(b), (e) or (f) shall furnish to the Authority, at such time and in such manner as the Authority may direct, all such information concerning his business in dealing in capital markets products that are over-the-counter derivatives contracts as the Authority may reasonably require.

**Exemption from requirement to hold capital markets services licence to deal in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading**

4.—(1) The following persons are exempt from the requirement to hold a capital markets services licence to carry on business in dealing in capital markets contracts that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading, subject to the conditions and restrictions specified:

- (a) a person who carries on business in dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading —
- (i) for his own account and with a related corporation or connected person; or
  - (ii) for his own account or an account belonging to and maintained wholly for the benefit of a related corporation or connected person, and with or through —
    - (A) the holder of a capital markets services licence to carry on business in dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading;
    - (B) a bank licensed under the Banking Act (Cap. 19);
    - (C) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186);
    - (D) a bank licensed, registered, approved or otherwise regulated under the laws of a jurisdiction outside Singapore to conduct banking business; or
    - (E) a corporation or firm licensed or registered to carry on business in dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading under the laws of a jurisdiction outside Singapore;
- (b) a person whose dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading is solely incidental to his carrying on business in fund management.

*[S 385/2012 wef 07/08/2012]*

(c) *[Deleted by S 385/2012 wef 07/08/2012]*

(2) A person otherwise exempted under sub-paragraph (1) shall not be or shall cease to be so exempted if he also carries on business for dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading other than in accordance with sub-paragraph (1)(a) or (b).

*[S 385/2012 wef 07/08/2012]*

(3) An individual otherwise exempted under sub-paragraph (1)(a) shall not be or shall cease to be so exempted if —

- (a) he is or becomes a representative or employee of the holder of a capital markets services licence to carry out dealing in capital markets products that are spot

foreign exchange contracts for the purposes of leveraged foreign exchange trading;

(b) he is or becomes an undischarged bankrupt whether in Singapore or elsewhere; or

(c) he has been convicted of a relevant offence.

*[S 385/2012 wef 07/08/2012]*

(4) A corporation otherwise exempted under sub-paragraph (1)(a) shall not be or shall cease to be so exempted if —

(a) the corporation or its substantial shareholder is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(b) execution against the corporation or its substantial shareholder in respect of a judgment debt has been returned unsatisfied in whole or in part;

(c) a receiver, a receiver and manager, a judicial manager or such other person having the powers and duties of a receiver, receiver and manager or judicial manager, has been appointed whether in Singapore or elsewhere in relation to, or in respect of, any property of the corporation or its substantial shareholder;

(d) the corporation or its substantial shareholder has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with its creditors, being a compromise or scheme of arrangement that is still in operation; or

(e) the corporation or its substantial shareholder has been convicted of a relevant offence.

*[S 385/2012 wef 07/08/2012]*

(4A) *[Deleted by S 385/2012 wef 07/08/2012]*

(5) *[Deleted by S 385/2012 wef 07/08/2012]*

(6) *[Deleted by S 385/2012 wef 07/08/2012]*

(7) *[Deleted by S 385/2012 wef 07/08/2012]*

(8) *[Deleted by S 385/2012 wef 07/08/2012]*

## **Exemption from requirement to hold capital markets services licence for fund management**

5.—(1) The following persons shall be exempted from the requirement to hold a capital markets services licence to carry on business in fund management, subject to the conditions and restrictions specified:

- (a) a headquarters company or Finance and Treasury Centre which carries on a class of business involving fund management but only to the extent that the business in fund management has been approved as a qualifying service in relation to that headquarters company or Finance and Treasury Centre under section 43E(2)(a) or 43G(2)(a) of the Income Tax Act (Cap. 134), as the case may be;
- (b) a corporation which carries on business in fund management for or on behalf of any of its related corporations, so long as in carrying on such business, none of the capital markets products or spot foreign exchange contracts being managed, are —
  - (i) held on trust for another person by the second-mentioned corporation;
  - (ii) the result of any investment contract entered into by the second-mentioned corporation; or
  - (iii) beneficially owned by any person, other than the first-mentioned or second-mentioned corporation;
- (c) an individual who carries on business in fund management for or on behalf of —
  - (i) his spouse, son, adopted son, step-son, daughter, adopted daughter, step-daughter, father, step-father, mother, step-mother, brother, step-brother, sister or step-sister; or
  - (ii) a firm or corporation in which he or any of the persons referred to in sub-paragraph (i) has control of 100% of the voting power, whether such control is exercised individually or jointly with any person referred to in that sub-paragraph, so long as in carrying on such business, none of the capital markets products or spot foreign exchange contracts being managed, are —
    - (A) held on trust for another person by any person referred to in sub-paragraph (i) or (ii);
    - (B) the result of any investment contract entered into by any person referred to in sub-paragraph (i) or (ii); or
    - (C) beneficially owned by any person, other than the individual or any person referred to in sub-paragraph (i) or (ii);

(d) *[Deleted by S 385/2012 wef 07/08/2012]*

(e) the holder of a capital markets services licence to deal in capital markets products that are futures contracts which carries on business in fund management in accordance with regulation 20;

(f) a Service Company whose business in fund management is solely incidental to its carrying on business as an agent of a member of Lloyd's;

(g) a financial adviser —

- (i) who is licensed under the Financial Advisers Act (Cap. 110) or exempt under section 23 or 100 of that Act in respect of the provision of the financial advisory services specified in paragraphs 1 and 3 of the Second Schedule to the Act; and
- (ii) who carries on business in fund management for or on behalf of another person (referred to in this paragraph as the client) in connection with any advice that is given by the licensed financial adviser to the client concerning units in a collective investment scheme or a portfolio of units in various collective investment schemes,

provided that —

- (A) the scope of such business is confined to the management of one or more portfolios comprising solely of units in one or more collective investment schemes, ~~all of which are not listed on an approved exchange a securities exchange~~;
- (B) in carrying on business in fund management for or on behalf of the client, the ~~licensed~~ financial adviser obtains the prior approval of the client in respect of each and every transaction for or on behalf of the client, except for
  - (BA) where the client's express agreement is obtained for realigning of the portfolio's assets weightings back to the financial adviser's original advice at the point when the original advice is provided; and
  - (BB) client is notified of the transaction that is solely for the purpose of sub-paragraph (BA), prior to each and every transaction and only receives the client's money or property in respect of approved transactions and services rendered by the licensed financial adviser in relation to such business; and
- (C) where the ~~licensed~~ financial adviser receives the client's money or property under sub-paragraph (B), such money or property, except to the extent that it is received wholly for services rendered by the licensee, shall be handed over to —

- (CA) the manager or trustee of the collective investment scheme;
- (CB) the holder of a capital markets services licence under the Act to provide custodial services which is authorised by the client to receive the client's money or property; or
- (CC) a person exempt under the Act from holding a capital markets services licence to provide custodial services which is authorised by the client to receive the client's money or property,

not later than the business day immediately following the day on which the ~~licensed~~ financial adviser receives the money or property or at a later date if, and only if, it has the client's prior written consent to do so;

*[S 373/2005 wef 01/07/2005]*

*[S 385/2012 wef 07/08/2012]*

- (h) a person who carries on business in fund management in Singapore on behalf of qualified investors where the assets managed by it comprise securities issued by one or more corporations or interests in bodies unincorporate, where the sole purpose of each such corporation or body unincorporate is to hold, whether directly or through another entity or trust, immovable assets;

*[S 385/2012 wef 07/08/2012]*

*[S 170/2013 wef 28/03/2013]*

- (i) a corporation —

- (i) which carries on business in Singapore in fund management on behalf of not more than 30 qualified investors, of which not more than 15 are collective investment schemes, closed-end funds, or limited partnerships referred to in sub-paragraph (3)(e); and
- (ii) which is registered with the Authority in accordance with sub-paragraph (7) and the registration is and continues to be published on the Authority's website.

*[S 385/2012 wef 07/08/2012]*

- (j) A person who carries on business in fund management in Singapore by managing the property of, or operating, a collective investment scheme which property does not comprise of any capital markets products, and of which all of the participants are qualified investors.

- (2) For the purposes of sub-paragraph (1) —

- (a) a person otherwise exempted under sub-paragraph (1) shall not be or shall cease to be so exempted if he also carries on business in fund management other than in accordance with sub-paragraph (1)(a), (b), (c), (e), (f), (h), (i) or (j) as the case may be;

*[S 385/2012 wef 07/08/2012]*

(b) a person who is exempted under sub-paragraph (1)(a) or (b) may, in ascertaining the number of qualified investors for the purpose of exemption under sub-paragraph (1)(i), exclude those persons on behalf of whom he carries on business in fund management under sub-paragraph (1)(a) or (b);

*[S 170/2013 wef 28/03/2013]*

(bb) a person otherwise exempted under sub-paragraph (1)(i) shall not be or shall cease to be so exempted if —

(i) it is the holder of a capital markets services licence in respect of any regulated activity;

*[S 385/2012 wef 07/08/2012]*

(ii) it has not commenced business in fund management in accordance with sub-paragraph (1)(i) within 6 months from the date of its registration by the Authority as a Registered Fund Management Company under sub-paragraph (7); or

*[S 385/2012 wef 07/08/2012]*

(iii) it has ceased to carry on business in fund management in accordance with sub-paragraph (1)(i), and has not resumed business in the same regulated activity in accordance with that sub-paragraph, within a continuous period of 6 months from the date of cessation.

*[S 373/2005 wef 01/07/2005]*

*[S 385/2012 wef 07/08/2012]*

(c) a person who is otherwise exempted under sub-paragraph (1)(i) and is also exempted under regulation 27(1)(d) of the Financial Advisers Regulations (Rg 2) from the requirement to hold a financial adviser's licence under the Financial Advisers Act (Cap. 110) in respect of providing any financial advisory service, other than arranging contracts of insurance in respect of life policies, shall not be or shall cease to be exempted under sub-paragraph (1)(i) if the number of qualified investors on behalf of whom he carries on business in fund management and the number of accredited investors, expert investors or institutional investors to whom he provides financial advisory services exceed 30 in total.

*[S 385/2012 wef 07/08/2012]*

(3) In this paragraph, each of the following persons, schemes and funds shall be considered as one qualified investor:

(a) an accredited investor, other than —

- (i) one who is a participant in a collective investment scheme referred to in sub-paragraph (b);
  - (ii) one who is a holder of a unit in a closed-end fund referred to in sub-paragraph (c);
  - (iii) one which is a corporation referred to in section 4A(1)(a)(ii) of the Act or an entity referred to in regulation 2(b) of the Securities and Futures (Prescribed Specific Classes of Investors) Regulations 2005 (G.N. No. S 369/2005) —
    - (A) which is related to or controlled by a person referred to in sub-paragraph (1)(i), or a key officer or substantial shareholder of such person; and
 

*[S 385/2012 wef 07/08/2012]*
    - (B) the shares or debentures of which are, after 28th May 2008, the subject of an offer or invitation for subscription or purchase made to any person who is not an accredited investor; or
  - (iv) a corporation or an entity which is a collective investment scheme or a closed-end fund the units of which are, after 28th May 2008, the subject of an offer or invitation made to any person who is not an accredited investor;
- (b) a collective investment scheme the units of which are the subject of an offer or invitation for subscription or purchase made —
- (i) in Singapore only to accredited investors or institutional investors or both; or
 

*[S 385/2012 wef 07/08/2012]*
  - (ii) elsewhere if, after 28th May 2008, such offer or invitation is made only to accredited investors, or investors in an equivalent class under the laws of the country or territory in which the offer or invitation is made, or institutional investors or both;
 

*[S 385/2012 wef 07/08/2012]*
- (c) a closed-end fund the units of which are the subject of an offer or invitation for subscription or purchase made only to accredited investors, or investors in an equivalent class under the laws of the country or territory in which the offer or invitation is made, or institutional investors or both;
 

*[S 385/2012 wef 07/08/2012]*
- (d) an institutional investor, other than a collective investment scheme;

*[S 385/2012 wef 07/08/2012]*

- (e) a limited partnership, where the limited partners comprise solely of accredited investors or investors in an equivalent class under the laws of the country or territory in which the partnership is formed, or institutional investors, or both;

*[S 385/2012 wef 07/08/2012]*

- (f) any other person that the Authority may, from time to time, by a guideline issued by the Authority, determine;

*[S 385/2012 wef 07/08/2012]*

(4) An individual shall not be or shall cease to be exempted from the requirement to hold a capital markets services licence to carry on business in fund management if —

- (a) he is or becomes a representative or employee of the holder of a capital markets services licence for fund management;
- (b) he is or becomes an undischarged bankrupt whether in Singapore or elsewhere;  
or
- (c) he has been convicted of a relevant offence.

(5) A corporation otherwise exempted under sub-paragraph (1)(a), (b), (h) or (i) shall not be or shall cease to be so exempted if —

- (a) the corporation or its substantial shareholder is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
- (b) execution against the corporation or its substantial shareholder in respect of a judgment debt has been returned unsatisfied in whole or in part;
- (c) a receiver, a receiver and manager, a judicial manager or such other person having the powers and duties of a receiver, receiver and manager or judicial manager, has been appointed whether in Singapore or elsewhere in relation to, or in respect of, any property of the corporation or its substantial shareholder;
- (d) the corporation or its substantial shareholder has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with its creditors, being a compromise or scheme of arrangement that is still in operation; or
- (e) the corporation or its substantial shareholder has been convicted of a relevant offence.

*[S 385/2012 wef 07/08/2012]*

*[S 170/2013 wef 28/03/2013]*

(6) A person who is exempted under sub-paragraph (1)(i) shall —

- (a) take reasonable measures to verify that the persons on behalf of whom he carries on business in fund management are qualified investors; and

(b) ensure that proper records are kept of any document evidencing the status of such persons.

*[S 385/2012 wef 07/08/2012]*

(7) A corporation which seeks to be exempted under sub-paragraph (1)(i) shall register with the Authority as a Registered Fund Management Company by lodging with the Authority a notice of commencement of its business in Form 22A prior to the commencement of its business in fund management, accompanied by a non-refundable annual fee which shall be paid in the manner specified by the Authority in writing.

*[S 385/2012 wef 07/08/2012]*

(7A) A corporation shall not represent itself as a Registered Fund Management Company, unless —

(a) it has fulfilled all the requirements in sub-paragraph (1)(i); and

(b) the registration of the corporation as a Registered Fund Management Company is and continues to be published on the Authority's website.

*[S 385/2012 wef 07/08/2012]*

(7B) The Authority may refuse to register a corporation under sub-paragraph (7) unless the corporation has demonstrated to the Authority's satisfaction that —

(a) it is able to fulfil the requirements under sub-paragraph (1)(i)(i) and regulation 13 or both regulations 13 and 13B (as the case may be) as applied to a Registered Fund Management Company under regulation 54A(1);

*[S 170/2013 wef 28/03/2013]*

(b) if it is incorporated in Singapore, its base capital, or if it is a foreign company, its net head office funds, is not less than \$250,000;

(c) it employs at least 2 persons, each of whom has at least 5 years' experience that is relevant to the fund management activities it intends to carry out; and

(d) the total value of its managed assets does not exceed \$250 million.

*[S 385/2012 wef 07/08/2012]*

(7C) The Authority may cancel the registration of a corporation under sub-paragraph (7) if the corporation is issued with a capital markets services licence in fund management.

*[S 385/2012 wef 07/08/2012]*

(7D) A Registered Fund Management Company shall not cause or permit —

(a) where it is incorporated in Singapore, its base capital; or

(b) where it is a foreign company, its net head office funds,

to fall below \$250,000.

*[S 385/2012 wef 07/08/2012]*

(7E) A Registered Fund Management Company shall at all times employ at least 2 persons, each of whom has at least 5 years' experience that is relevant to the fund management activities it is carrying out.

*[S 385/2012 wef 07/08/2012]*

(7F) The total value of the managed assets of a Registered Fund Management Company shall not at any time exceed \$250 million.

*[S 385/2012 wef 07/08/2012]*

(7G) If a corporation which carries on business in fund management in reliance on sub-paragraph (1)(i) fails to meet the criterion in sub-paragraph (1)(i)(i) or to comply with sub-paragraph (7D), (7E) or (7F), or becomes aware that it will likely fail to meet any of those criteria or to comply with sub-paragraph (7D), (7E) or (7F), it shall —

- (a) immediately notify the Authority; and
- (b) cease any increase in positions, and not accept assets for fund management, until such time as advised by the Authority.

*[S 385/2012 wef 07/08/2012]*

(7H) If the Authority becomes aware that a corporation which carries on business in fund management in reliance on sub-paragraph (1)(i) fails to meet any criterion in sub-paragraph (1)(i)(i) or to comply with sub-paragraph (7D), (7E) or (7F), the Authority may direct the Registered Fund Management Company to operate its business in such manner and on such conditions as the Authority may impose, and the corporation to whom such direction is issued shall comply with the direction.

*[S 385/2012 wef 07/08/2012]*

(7I) A Registered Fund Management Company shall lodge with the Authority—

- (a) a notice of change of particulars in Form 23A providing any change in the particulars in the notice lodged under sub-paragraph (7), not later than 14 days after the date of the change;
- (b) a notice of cessation of business in Form 24A at any time prior to the cessation of its business in fund management; and
- (c) an annual declaration in Form 25A within one month after the end of each of its financial years.

*[S 385/2012 wef 07/08/2012]*

(7J) A Registered Fund Management Company shall submit an auditor's report in Form 25B, no later than 5 months after the end of each of its financial years.

*[S 385/2012 wef 07/08/2012]*

(7K) In this paragraph, “managed assets”, in relation to a corporation (including one that is a Registered Fund Management Company), means all of the following:

- (a) moneys and assets contracted to, drawn down by or are under the discretionary authority granted by the customer to the corporation and in respect of which it is carrying out fund management;
- (b) moneys and assets contracted to the corporation, and are under the non-discretionary authority granted by the customer to the corporation, and in respect of which the corporation is carrying out fund management;
- (c) moneys and assets contracted to the corporation, but which have been sub-contracted to another party and for which the other party is carrying out fund management, whether on a discretionary authority granted by the customer or otherwise.

*[S 385/2012 wef 07/08/2012]*

(7L) In sub-paragraph (7K), moneys and assets are contracted to a corporation if they are the subject-matter of a contract for fund management between the corporation and its customer.

*[S 385/2012 wef 07/08/2012]*

(8) Every person exempted under sub-paragraph (1)(a), (e), (h) or (i) shall furnish to the Authority, at such time and in such manner as the Authority may direct, all such information concerning his business in fund management as the Authority may reasonably require.

*[S 385/2012 wef 07/08/2012]*

(9) *[Deleted by S 385/2012 wef 07/08/2012]*

## Providing Custodial Services

### **Exemption from requirement to hold capital markets services licence to provide custodial services**

6.—(1) The following persons shall be exempted from the requirement to hold a capital markets services licence to carry on business in providing custodial services, subject to the conditions and restrictions specified:

- (a) a trustee of a qualified arrangement in respect of specified products when carrying out his duties of managing and administering such arrangement;

- (b) a company or society registered under the Insurance Act (Cap. 142) when carrying on business in providing custodial services only in respect of units of any collective investment scheme;
- (c) a Service Company acting as an agent in Singapore for any member of Lloyd's, when carrying on business in providing custodial services only in respect of units of any collective investment scheme.

(2) Part III of these Regulations shall, with the necessary modifications, apply to each of the persons referred to in sub-paragraph (1)(b) and (c) as if it were the holder of a capital markets services licence and, where applicable, to a representative of any of these persons when acting as such, as if he were the holder of a representative's licence.

### Advising on Corporate Finance

#### **Exemption from requirement to hold capital markets services licence to advise on corporate finance**

7.—(1) The following persons shall be exempted from the requirement to hold a capital markets services licence to carry on business in advising on corporate finance, subject to the conditions and restrictions specified:

- (a) a person who carries on business in giving advice on corporate finance to a related corporation, provided that —
  - (i) such advice is not specifically given for the making of any offer of specified products to the public by the related corporation; and
  - (ii) where the related corporation is —
    - (A) a public company;
    - (B) listed on an approved exchange ; or
    - (C) a subsidiary of a corporation listed on an approved exchange

such advice is not circulated to the shareholders (other than shareholders who are accredited investors, expert investors or institutional investors) of (in the case of sub-paragraph (A) or (B)) the related corporation or (in the case of sub-paragraph (C)) the listed corporation, or is otherwise made known to the public;

- (b) a person resident in Singapore who carries on business in Singapore in giving advice on corporate finance to accredited investors, expert investors or institutional investors, provided that —

- (i) such advice is not specifically given for the making of any offer of specified products to the public by the accredited investor, expert investor or institutional investor to whom the advice was given; and
- (ii) where the accredited investor, expert investor or institutional investor is —
  - (A) a public company;
  - (B) listed on an approved exchange; or
  - (C) a subsidiary of a corporation listed on an approved exchange

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such advice is not circulated to the shareholders (other than shareholders who are accredited investors, expert investors or institutional investors) of (in the case of sub-paragraph (A) or (B)) the accredited investor, expert investor or institutional investor or (in the case of sub-paragraph (C)) the listed corporation, or is otherwise made known to the public;

- (c) a person who advises another person concerning any arrangement, reconstruction or take-over of any corporation or any of the corporation's assets or liabilities, provided that —
  - (i) such advice is not specifically given for the making of any offer of securities to the public by the second-mentioned person; and
  - (ii) where the second-mentioned person is —
    - (A) a public company;
    - (B) listed on an approved exchange; or
    - (C) a subsidiary of a corporation listed on an approved exchange,

such advice is not circulated to the shareholders (other than shareholders who are accredited investors, expert investors or institutional investors) of (in the case of sub-paragraph (A) or (B)) the second-mentioned person or (in the case of sub-paragraph (C)) the listed corporation, or is otherwise made known to the public;

- (d) a person who carries on business in giving advice to another person concerning compliance with or in respect of any laws or regulatory requirements relating to the raising of funds not involving any specified products.

(2) A person otherwise exempted under sub-paragraph (1)(a), (b), (c) or (d) shall not be or shall cease to be so exempted if he also carries on business in advising on corporate finance other than in accordance with sub-paragraph (1)(a), (b), (c) or (d).

(2A) A person otherwise exempted under sub-paragraph (1)(b) shall not be or shall cease to be so exempted if —

- (a) he is the holder of a capital markets services licence in respect of any regulated activity;
- (b) he has not commenced business in advising on corporate finance in accordance with sub-paragraph (1)(b) within 6 months from the date of commencement of business as specified in the notice that the person has lodged with the Authority in accordance with sub-paragraph (6)(a); or
- (c) he has ceased to carry on business in advising on corporate finance in accordance with sub-paragraph (1)(b), and has not resumed business in the same regulated activity in accordance with that sub-paragraph, within a continuous period of 6 months from the date of cessation.

*[S 373/2005 wef 01/07/2005]*

(3) An individual otherwise exempted under sub-paragraph (1) shall not be or shall cease to be so exempted if —

- (a) he is or becomes a representative or employee of the holder of a capital markets services licence in advising on corporate finance;
- (b) he is or becomes an undischarged bankrupt whether in Singapore or elsewhere;  
or
- (c) he has been convicted of a relevant offence.

(4) A corporation otherwise exempted under sub-paragraph (1) shall not be or shall cease to be so exempted if —

- (a) the corporation or its substantial shareholder is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
- (b) execution against the corporation or its substantial shareholder in respect of a judgment debt has been returned unsatisfied in whole or in part;
- (c) a receiver, a receiver and manager, a judicial manager or such other person having the powers and duties of a receiver, receiver and manager or judicial manager, has been appointed whether in Singapore or elsewhere in relation to, or in respect of, any property of the corporation or its substantial shareholder;
- (d) the corporation or its substantial shareholder has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with its creditors, being a compromise or scheme of arrangement that is still in operation; or
- (e) the corporation or its substantial shareholder has been convicted of a relevant offence.

(5) A person who is exempted under sub-paragraph (1)(b) shall —

- (a) take reasonable measures to verify that the persons to whom he carries on business in advising on corporate finance are accredited investors, expert investors or institutional investors; and
- (b) ensure that proper records are kept of any document evidencing the status of such persons.

(6) A person who is exempted under sub-paragraph (1)(b) shall lodge with the Authority —

- (a) a notice of commencement of business in Form 22 not later than 14 days after the commencement of his business in advising on corporate finance;
- (b) a notice of change of particulars in Form 23 providing any change in the particulars in the notice under sub-paragraph (a), not later than 14 days after the date of the change;
- (c) a notice of cessation of business in Form 24 not later than 14 days after the cessation of his business in advising on corporate finance; and
- (d) a declaration in Form 25 within 14 days after the end of the financial year of the person.

(7) Every person exempted under sub-paragraph (1)(b) shall furnish to the Authority, at such time and in such manner as the Authority may direct, all such information concerning his business in advising on corporate finance as the Authority may reasonably require.

(8) A person exempted under sub-paragraph (1)(b) who has, at any time before 1st October 2002, lodged a notice of commencement of business in the prescribed form under regulation 41(5)(a) of the revoked Securities Industry Regulations (Cap. 289, Rg 1) in relation to the activity specified in paragraph (a) of the definition of “investment adviser” in section 2 (1) of the repealed Securities Industry Act (Cap. 289) shall be deemed to have lodged a notice of commencement of business in compliance with sub-paragraph (6)(a).

### Other Exemptions

#### **Exemption from section 99B(1) of Act**

8.—(1) Subject to sub-paragraph (7), an employee of the holder of a capital markets services licence for dealing in capital markets products that are securities, units in a collective investment scheme, over-the-counter derivatives contracts, and specified exchange-traded derivatives contracts is exempt from section 99B(1) of the Act when carrying out any of the following for the account of the licence holder or for an account

belonging to and maintained wholly for the benefit of a corporation related to the licence holder:

- (a) dealing in capital markets products that are securities, units in a collective investment scheme, or specified exchange-traded derivatives contracts, or any combination of the foregoing, on an approved exchange or recognised market operator; or
- (b) dealing in capital markets products that are securities, units in a collective investment scheme, or specified exchange-traded derivatives contracts, or any combination of the foregoing, with —
  - (i) an institutional investor; or
  - (ii) an entity licensed, approved, registered or otherwise regulated by a regulator who is responsible for the supervision of financial institutions in a jurisdiction other than Singapore.

(2) Subject to sub-paragraph (7), an employee of the holder of a capital markets services licence for dealing in capital markets products that are futures contracts shall be exempted from section 99B(1) of the Act when carrying out regulated activities for the account of the licence holder or for an account belonging to and maintained wholly for the benefit of a corporation related to the licence holder.

(3) Subject to sub-paragraph (7), an employee of the holder of a capital markets services licence for dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading shall be exempted from section 99B(1) of the Act when carrying out any of the following for the account of the licence holder or for an account belonging to and maintained wholly for the benefit of a corporation related to the licence holder:

- (a) dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading with an institutional investor; or
- (b) dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading with an entity licensed, approved, registered or otherwise regulated by a regulator who is responsible for the supervision of financial institutions in a jurisdiction other than Singapore.

(4) Subject to sub-paragraph (7), an employee of a person exempted under section 99(1)(a), (b) or (c) of the Act in respect of the activity of dealing in capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts, or any combination of the foregoing shall be exempted from section 99B(1) of the Act when carrying out any of the following for the account of the exempt person or for an account belonging to and maintained wholly for the benefit of a corporation related to the exempt person:

- (a) dealing in capital markets products that are securities, units in a collective investment scheme, or specified exchange-traded derivatives contracts, or any combination of the foregoing on an approved exchange or recognised market operator; or
- (b) dealing in capital markets products that are securities, units in a collective investment scheme, over-the-counter derivatives contracts, or specified exchange-traded derivatives contracts, or any combination of the foregoing with —
  - (i) an institutional investor; or
  - (ii) an entity licensed, approved, registered or otherwise regulated by a regulator who is responsible for the supervision of financial institutions in a jurisdiction other than Singapore.

(5) Subject to sub-paragraph (7), an employee of a person exempted under section 99(1)(a), (b) or (c) of the Act in respect of the activity of dealing in capital markets products that are futures contracts shall be exempted from section 99B(1) of the Act when carrying out that activity for the account of the exempt person or for an account belonging to and maintained wholly for the benefit of a corporation related to the exempt person.

(6) Subject to sub-paragraph (7), an employee of a person exempted under section 99(1)(a), (b) or (c) of the Act in respect of the activity of dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading shall be exempted from section 99B(1) of the Act when carrying out any of the following for the account of the exempt person or for an account belonging to and maintained wholly for the benefit of a corporation related to the exempt person:

- (a) dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading with an institutional investor; or
- (b) dealing in capital markets products that are spot foreign exchange contracts for the purposes of leveraged foreign exchange trading with an entity licensed, approved, registered or otherwise regulated by a regulator who is responsible for the supervision of financial institutions in a jurisdiction other than Singapore.

(7) Sub-paragraphs (1) to (6) —

- (a) shall not apply to any activity of dealing in capital markets products which involves customer account; and
- (b) shall only apply if the employee, when dealing in capital markets products —
  - (i) does not have access to customers' trade and order information; and
  - (ii) is not in a position to control or affect the order or priority of executing customers' orders.

(8) A person shall, when acting as a representative of the holder of a capital markets services licence or person exempt under section 99(1)(a), (b) or (c) of the Act in respect of the activity of product financing or providing custodial services, be exempted from section 99B(1) of the Act, as the case may be.

*[S 709/2010 wef 26/11/2010]*

**Exemption for exchange holding company**

9. An exchange holding company shall be exempted from the requirement to hold a capital markets services licence in respect of any regulated activity insofar as its carrying out of such regulated activity is solely incidental to its operation as an exchange holding company.