

**DRAFT AMENDMENTS TO
THE FINANCIAL ADVISERS REGULATIONS**

DISCLAIMER: This version of amendments is in draft form and subject to change. It is also subject to review by the Attorney-General's Chambers.

PART I
PRELIMINARY

Definitions

2.—(1) In these Regulations, unless the context otherwise requires –

“accounting standards” means the accounting standards made or formulated by the Accounting Standards Council under Part III of the Accounting Standards Act (Cap. 2B);

[...]

“associate”, in relation to an entity (referred to in this definition as the first entity), means –

- (a) any entity in which the first entity controls the composition of the board of directors or such corresponding officers as may be prescribed;
- (b) any entity in which the first entity controls more than half of the voting power or such measure corresponding to voting power as may be prescribed;
- (c) any entity in which the first entity holds more than half of the total number of issued shares or such corresponding interest as may be prescribed;
- (d) a subsidiary of any other entity which is an associate by reason of paragraph (a), (b) or (c);
- (e) any entity (referred to in this paragraph as the second entity) in which —
 - (i) the first entity; or
 - (ii) any entity which is an associate by reason of paragraph (a), (b), (c) or (d); or

has, or the entities in subparagraphs (i) and (ii) together have, an interest in shares entitling the beneficial owners thereof the right to cast (whether by proxy or in person) not less than 20% but not more than 50% of the total votes able to be cast at a general meeting of the second entity, or such corresponding interest as may be prescribed; or

- (f) any entity (not being one which is an associate by reason of paragraph (a), (b), (c), (d) or (e)) the policies of which —
 - (i) the first entity; or
 - (ii) any entity which is an associate by reason of paragraph (a), (b), (c), (d) or (e),

or the entities in subparagraphs (i) and (ii) together are able to control or influence materially;

“group”, in relation to a licensed financial adviser or exempt person, means a group of entities comprising the licensed financial adviser or exempt person and —

(a) any of its associates; and

(b) any other entity treated as part of the licensed financial adviser or exempt person’s group of companies according to the accounting standards applicable to the licensed financial adviser or exempt person.

[...]

PART II

CONTROL OF PROVISION OF FINANCIAL ADVISORY SERVICES

Obligation to notify Authority of certain matters

12AA.—(1) A licensed financial adviser shall immediately inform the Authority when the licensed financial adviser becomes aware:

- (a) that it has contravened or is likely to contravene, any provisions of any Acts administered, or requirements imposed, by the Authority;
- (b) of any adverse development that has occurred, or is likely to occur, which the licensed financial adviser has reasonable grounds to believe has materially affected adversely, or is likely to materially affect adversely –
 - (i) the financial soundness or reputation of the licensed financial adviser;
 - (ii) the financial soundness or reputation of any entity in the group of the licensed financial adviser where such development affect the licensed financial adviser; or
 - (iii) such other factors as the Authority may set out by notice in writing;
- (c) that a person who holds an office or appointment under section 56(1) of the Act is, in accordance with the guidelines issued by the Authority under the Act, no longer a fit and proper person to hold that office or appointment;
- (d) that a person approved under section 57A is, in accordance with the guidelines issued by the Authority under the Act, is not a fit and proper person; or

- (e) having regard to the likely influence of a person approved under section 57A, the licensed financial adviser is not likely to be able to conduct its business prudently and comply with the provisions of the Act and directions made thereunder.

(2) Any person who contravenes paragraph (1) shall be guilty of an offence.

[...]

Exemption from requirement to hold financial adviser's licence for advising certain persons

27.

—(1) Subject to this regulation, the following persons are exempt from holding a financial adviser's licence under section 23(1)(f) of the Act:

(a) an approved headquarters company or approved Finance and Treasury Centre which carries on business involving the provision of all or any type of financial advisory service, but only to the extent that such provision of financial advisory service 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 provides all or any type of financial advisory service to any of its related corporations;

(c) a person who provides all or any type of financial advisory service to any of its connected persons;

(d) a person resident in Singapore who acts, whether directly or indirectly, as a financial adviser in giving advice in Singapore, either directly or through publications or writings or by issuing or promulgating research analyses or research reports, concerning any investment product (other than life policies), to not more than 30 accredited investors on any occasion; or

(e) a person who provides all or any type of financial advisory service to an institutional investor.

(f) *[Deleted by S 383/2012 wef 07/08/2012]*

(2) A person who is exempt under paragraph (1)(a), (b) or (c) may, in ascertaining the number of accredited investors for the purpose of exemption under paragraph (1)(d), exclude those persons on behalf of whom he provides all or any type of financial advisory service under paragraph (1)(a), (b) or (c).

(3) A person referred to in paragraph (1)(d) which is exempt from the requirement to hold a capital markets services licence to carry on business in fund management under paragraph 5(1)(i) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations shall not be, or shall cease to be, exempt from holding a financial adviser's licence under section 23(1)(f) of the Act if —

(a) the aggregate of the number of qualified investors on behalf of which it carries on business in fund management and the number of accredited investors to which it provides financial advisory services exceeds 30 in total;

(b) more than 15 of the qualified investors on behalf of which it carries on business in fund management are collective investment schemes, closed-end funds, or limited partnerships referred to in paragraph 5(3)(e) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations; or

(c) the total value of its managed assets (as defined in paragraph 5(7K) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations) exceeds \$250 million.

(3A) A person exempted under paragraph (1)(d) shall not be, or shall cease to be, so exempt if —

(a) the person has not commenced business in accordance with paragraph (1)(d) 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 regulation 37(2); or

(b) the person has ceased to carry on business in accordance with paragraph (1)(d), and has not resumed business in the same regulated activity in accordance with that paragraph within a continuous period of 6 months from the date of cessation.

(3B) A person exempted under paragraph (1)(d) shall immediately inform the Authority when he becomes aware:

(a) that he has contravened or is likely to contravene, any provisions of any Acts administered, or requirements imposed, by the Authority;

(b) of any development that has occurred, or is likely to occur, which the person has reasonable grounds to believe has materially affected adversely, or is likely to materially affect adversely –

- (i) the financial soundness or reputation of the person;
- (ii) the financial soundness or reputation of any entity in the group of the person where such development affect the person; or
- (iii) such other factors as the Authority may specify by notice in writing.

(3BA) Any person who contravenes paragraph (3B) shall be guilty of an offence.

(4) Section 33 of the Act shall, with the necessary modifications, apply to the persons referred to in paragraph (1).

(5) A person otherwise exempt under paragraph (1) shall not be, or shall cease to be, so exempt if he also carries on a business of providing any financial advisory service other than in accordance with paragraph (1)(a), (b), (c), (d) or (e).

(6) A person referred to in paragraph (1)(c), (d) or (e) who is an individual shall not be, or shall cease to be, exempt from holding a financial adviser's licence under section 23(1)(f) of the Act if —

(a) he is or becomes an employee or representative of a licensed financial adviser or an exempt financial adviser;

(b) he has been adjudged a bankrupt, whether in Singapore or elsewhere; or

(c) he has been convicted —

- (i) whether in Singapore or elsewhere, of any offence 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 he had acted fraudulently or dishonestly;
- (i) of any offence under the Companies Act (Cap. 50) involving lack of diligence, or the conviction for which involved a finding that he had acted with a lack of diligence, in the discharge of his duties as a director of a corporation;
- (ii) of any offence under the Act; or
- (iii) of any offence under the Banking Act (Cap. 19), 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) or the Securities and Futures Act (Cap. 289).

(7) A person referred to in paragraph (1)(a), (b), (c), (d) or (e) which is a corporation shall not be, or shall cease to be, exempt from holding a financial adviser's licence under section 23(1)(f) of the Act if —

- (a) the corporation or any of its substantial shareholders is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
- (b) a receiver, receiver and manager, 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 any of its substantial shareholders;
- (c) the corporation or any of its substantial shareholders has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with his or its creditors, being a compromise or scheme of arrangement that is still in operation;
- (d) execution against the corporation or any of its substantial shareholders in respect of a judgment debt has been returned unsatisfied in whole or in part; or
- (e) the corporation or any of its substantial shareholders has been convicted —
 - (i) whether in Singapore or elsewhere, of any offence 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 he or it had acted fraudulently or dishonestly;
 - (ii) of any offence under the Companies Act (Cap. 50) involving lack of diligence, or the conviction for which involved a finding that he had acted with a lack of diligence, in the discharge of his duties as a director of a corporation;
 - (iii) of any offence under the Act; or
 - (iv) of any offence under the Banking Act (Cap. 19), 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) or the Securities and Futures Act (Cap. 289).

(8) In this regulation —

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

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

“fund management” has the same meaning as in section 2(1) of the Securities and Futures Act;

“qualified investor” has the same meaning as in paragraph 5(3) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg 10);

“resident in Singapore” has the same meaning as in section 2(1) of the Income Tax Act.

**SECOND SCHEDULE
FEES**

<i>First column</i>	<i>Second column</i>	<i>Third column</i>	<i>Fourth column</i>
<i>No.</i>	<i>Provision of Act</i>	<i>Matter</i>	<i>Amount</i>
		[...]	
2.	Section 14(1)	Annual licence fee for financial adviser's licence	<p style="text-align: center;">\$2,000</p> <p>(a) Where licensed financial adviser has no GIRO arrangement with the Authority, by cheque by the date specified in the fee advice</p> <p>(b) Where licensed financial adviser has GIRO arrangement with the Authority, by <u>GIRO by the date specified in the fee</u></p>

advice. ~~by~~
~~19th~~
~~December~~—of
the ~~preceding~~
year.

[...]

6. Section 23H(2)	Annual fee for retention of name of appointed or provisional representative in public register of representatives in any other year	\$100	(a) Where principal has no GIRO arrangement with the Authority, by cheque by the date specified in the fee advice
			(b) Where principal has GIRO arrangement with the Authority, <u>by</u> <u>GIRO by the</u> <u>date specified</u> <u>in the fee</u> <u>advice.</u> by 19th December —of the preceding year or, if the name is

~~entered in the
register in the
preceding
year—during
the—period
between 20th
and—31st
December
(both—dates
inclusive), by
the 16th day
of—the
following
month~~

[...]