

**ANNEX 5: DRAFT SECURITIES AND FUTURES (FINANCIAL
AND MARGIN REQUIREMENTS FOR HOLDERS OF
CAPITAL MARKETS SERVICES LICENCES)
(AMENDMENT) REGULATIONS 2007
COMPARATIVE TABLE**

COMPARATIVE TABLE OF PROVISIONS

AMENDMENTS TO THE SECURITIES AND FUTURES (FINANCIAL AND MARGIN REQUIREMENTS) REGULATIONS

<u>Existing Provision</u>	<u>Proposed Amendment</u>
<p>Where base capital of holder of licence falls below base capital requirement</p> <p>4. —(1) The holder of a licence shall not cause or permit —</p> <p>(a) where it is incorporated in Singapore, its base capital; or</p> <p>(b) where it is a foreign company, its net head office funds,</p> <p>to fall below the base capital requirement applicable to the holder under regulation 3.</p> <p>(2) If the holder of a licence fails to comply with paragraph (1) or becomes aware that it will fail to comply with that paragraph, the holder shall immediately notify —</p> <p>(a) the Authority; and</p> <p>(b) the approved exchange or designated clearing house of which the holder is a member (if applicable).</p> <p>(3) If the Authority is notified by the holder of a licence under paragraph (2) or becomes aware that the holder has failed to comply with paragraph (1), the Authority may —</p>	<p>Subject to paragraph 1(A), the</p> <p><u>(1A) The holder of a licence shall not, without the prior written approval of the Authority change in pursuance of paragraph 3 of the First Schedule, the base capital requirement which —</u></p> <p>(a) <u>is initially applicable to it under regulation 3 at the time of the grant or renewal of its licence, as the case may be; or</u></p> <p>(b) <u>has been previously approved in writing by the Authority under this subsection.</u></p>

Existing Provision

- (a) direct the holder to immediately do one or more of the following:
- (i) cease any increase in positions, securities financing, funds accepted for management and assets accepted for custody for any account carried by the holder;
 - (ii) transfer all or part of any customer's positions, securities margins, collateral, assets and accounts to one or more other holders of licences;
 - (iii) operate its business in such manner and on such conditions as the Authority may impose;
 - (iv) cease carrying on business in any or all of the regulated activities permitted under its licence until such time the holder complies with paragraph (1), except that the holder may continue trading for the purposes of liquidation only or unless otherwise directed by the Authority; or
- (b) revoke the licence of the holder under section 95 (2) (a) of the Act.
- (4) The Authority may revoke the licence of the holder under section 95 (2) (a) of the Act if the holder fails to comply with a direction issued to it under paragraph (3) (a).

Proposed Amendment

Holder of licence

Existing Provision

Proposed Amendment

5. In this Division, unless the context otherwise requires, “holder of a licence” means a corporation which is one or more of the following:
- (a) the holder of a licence to deal in securities which is a member of a securities exchange, not including the holder of a licence —
 - (i) which does not carry any customer’s position, margin or account in its own books; and
 - (ii) which either —
 - (A) deals in securities only with accredited investors; or
 - (B) carries on the business of only soliciting or accepting orders for the purchase or sale of any securities from any customer;
 - (b) the holder of a licence to trade in futures contracts which is a member of a futures exchange, not including the holder of a licence —
 - (i) which does not carry any customer’s position, margin or account in its own books; and
 - (ii) which either —
 - (A) trades in futures contracts only with accredited investors; or
 - (B) carries on the business of only soliciting or accepting orders for the purchase or sale of any futures contract from any customer;
 - (c) the holder of a licence which is a member of a designated clearing house;
 - (d) the holder of a licence which has elected to be one to which this Division applies in accordance with regulation 8 (2) or 12 (2),

Existing Provision

whether or not the corporation is also permitted to carry on business in any other regulated activity.

Proposed Amendment

Maintenance of financial resources

5A. – (1) The holder of a licence incorporated in Singapore shall maintain and hold its financial resources in accordance with such requirements as the Authority may impose under paragraph (2).

(2) The Authority may, from time to time, by notice in writing to any holder of licence incorporated in Singapore, or any class of holders of licence in Singapore, require the holder or holders of licence to maintain and hold such minimum amount of assets in Singapore as may be specified in the notice.

(3) Without prejudice to the generality of paragraph (2), the Authority may in a notice referred to in that paragraph, specify –

(a) the types of assets that are to be treated as assets maintained and held in Singapore and the minimum amount or amounts in respect of each asset for the purpose of any requirement of the Authority under that paragraph; and

(b) the method for the valuation of assets maintained and held in Singapore, including any deductions to be made in respect of the assets.

Existing Provision

Proposed Amendment

Maintenance of reserve fund by holder of licence which is member of designated clearing house

19. —(1) The holder of a licence to deal in securities or trade in futures contracts, or both, which is a member of a designated clearing house shall maintain a reserve fund to which a sum of not less than 30% of the audited net profits of each year shall be transferred out of the net profits after due provision has been made for taxation, so long as —

(a) where it is incorporated in Singapore, the base capital less unappropriated profits in the latest audited accounts of the holder; or

(b) where it is a foreign company, the net head office funds of the holder,

is less than ~~\$15 million.~~

\$5 million

(2) Subject to regulation 23, if the Authority is satisfied that the reserve fund of the holder of a licence referred to in paragraph (1) is adequate for its business, the Authority may, by order in writing and on such conditions or restrictions as the Authority may impose, allow such amount in the reserve fund of that holder as the Authority may specify to be available for distribution as dividends.

Existing Provision

Proposed Amendment

PART VIII

MISCELLANEOUS

Offences

28A. Any person who contravenes —

(a) regulation 4 (1) or (2), 6 (1) or (3), 7 (1), (3) or (5) (a), 9 (1) or (2), 10 (1) or (3) (a), 11 (1), (2) or (4) (a), 13 (1) or (2), 14 (1), 16 (1) or (2), 17 (1), (2) or (4) (a), 19 (1), 20, 21 (1) or (2), 22 (1) or (2), 23, 24 (1), (2) or (3), 25 (1), (2) or (4) or 26 (2) or (3); or

(b) any direction issued by the Authority under regulation 4 (3) (a), 7 (4) (b) or (4A), 10 (2) (a), 11 (3) (a), 14 (2) (a) or 17 (3) (b) or (3A),

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

[, (1A)
5(A)(1),

Existing Provision

Proposed Amendment

FIRST SCHEDULE

Regulation 3

**BASE CAPITAL REQUIREMENT FOR A CORPORATION
TO BE GRANTED A CAPITAL MARKETS SERVICES
LICENCE OR A HOLDER OF A CAPITAL MARKETS
SERVICES LICENCE WHICH IS TO BE RENEWED**

2. Where more than one base capital requirement is applicable to the corporation or holder referred to in paragraph 1, the base capital requirement applicable to the corporation or holder (referred to in the table below as the applicant) shall be the higher or, as the case may be, highest of the applicable base capital requirements.

Subject to Paragraph 3, where

3. Where either item 2 or 2A in the first column of the table below is applicable to the corporation or holder referred to in paragraph 1, the applicant may choose to comply with the base capital requirements in either item, except that where the applicant has chosen to comply with the base capital requirements within item 2A, it is restricted to the trading of futures contracts only in respect of -

(a) gold; or

(b) any produce, item, goods or article, and includes an index, right or interest in produce, item, goods or article,

(referred to in this Schedule as commodity futures contracts).

Existing Provision

Proposed Amendment

<i>First column</i>	-	<i>Second column</i>
<i>Regulated Activity</i>	-	<i>Base Capital Requirement Applicable</i>
(1) Dealing in securities and —	-	-
(a) the applicant is a member of a designated clearing house authorised to operate a clearing facility for securities;	-	\$5 million
(b) the applicant (not being an applicant to which paragraph (d) or (e) applies) is a member of a securities exchange;	-	\$1 million
(c) the applicant (not being an applicant to which paragraph (d) or (e) applies) is not a member of a securities exchange;	-	\$1 million
(d) the applicant does not carry any customer's positions in securities, margins or accounts in its own books, and either —	-	\$500,000
(i) carries on the business only of soliciting	-	-

<u><i>First column</i></u>	-	<u><i>Second column</i></u>
<u><i>Regulated Activity</i></u>	-	<u><i>Base Capital Requirement Applicable</i></u>
<u>(1) Dealing in securities and —</u>	-	-
<u>(a) the applicant is a member of a designated clearing house authorised to operate a clearing facility for securities;</u>	-	<u>\$5 million</u>
<u>(b) the applicant (not being an applicant to which paragraph (d) or (e) applies) is a member of a securities exchange;</u>	-	<u>\$1 million</u>
<u>(c) the applicant (not being an applicant to which paragraph (d) or (e) applies) is not a member of a securities exchange;</u>	-	<u>\$1 million</u>
<u>(d) the applicant does not carry any customer's positions in securities, margins or accounts in its own books, and either —</u>	-	<u>\$500,000</u>
<u>(i) carries on the business only of soliciting or</u>	-	-

Existing Provision

~~or accepting orders for the purchase or sale of any securities from any customer (not being an applicant to which paragraph (e) applies); or~~

~~(ii) accepts money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any contract for the purchase or sale of securities by that customer; or~~

~~(e) the applicant — \$250,000~~

~~(i) does not carry any customer's positions in securities, margins or accounts in its own books;~~

~~(ii) deals in securities only with accredited investors; and~~

~~(iii) does not accept money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any contract for the purchase or sale of securities by that customer.~~

~~(2) Trading in futures contracts and —~~

~~(a) the applicant is a member of a designated clearing house authorised to operate a~~ \$5 million

Proposed Amendment

accepting orders for the purchase or sale of any securities from any customer (not being an applicant to which paragraph (e) applies); or

(ii) accepts money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any contract for the purchase or sale of securities by that customer; or

(e) the applicant — \$250,000

(i) does not carry any customer's positions in securities, margins or accounts in its own books;

(ii) deals in securities only with accredited investors; and

(iii) does not accept money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any contract for the purchase or sale of securities by that customer.

(2) Trading in futures contracts and —

(a) the applicant is a member of a designated clearing house authorised to operate a clearing \$5 million

Existing Provision

clearing facility for futures contracts;

~~(b) the applicant (not being an applicant to which paragraph (d) or (e) applies) is a member of a futures exchange;~~ \$1 million

~~(c) the applicant (not being an applicant to which paragraph (d) or (e) applies) is not a member of a futures exchange;~~ \$1 million

←

~~(d) the applicant does not carry any customer's positions in futures contracts, margins or accounts in its own books, and either —~~ \$500,000

~~(i) carries on the business only of soliciting or accepting orders for the purchase or sale of any futures contract from any customer (not being an applicant to which paragraph (e) applies); or~~ - -

~~(ii) accepts money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any purchase or sale of futures contract by that customer; or~~ - -

~~(e) the applicant —~~ - \$250,000

Proposed Amendment

facility for futures contracts where the applicant's membership is not limited to commodity futures contracts only;

(b) the applicant is a member of a designated clearing house authorised to operate a clearing facility for futures contracts where the applicant's membership is limited to commodity futures contracts only; \$1 million

(c) the applicant (not being an applicant to which paragraph (e) or (f) applies) is a member of a futures exchange; \$1 million

(d) the applicant (not being an applicant to which paragraph (e) or (f) applies) is not a member of a futures exchange; \$1 million

(e) the applicant does not carry any customer's positions in futures contracts, margins or accounts in its own books, and either — \$500,000

(i) carries on the business only of soliciting or accepting orders for the purchase or sale of any futures contract from any customer (not being an applicant to which paragraph (f) applies); or - -

(ii) accepts money or assets from any - -

Existing Provision

- ~~(i) does not carry any customer's positions in futures contracts, margins or accounts in its own books;~~
- ~~(ii) trades in futures contracts only with accredited investors; and~~
- ~~(iii) does not accept money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any purchase or sale of futures contract by that customer.~~
- ~~(3) Carrying out leveraged foreign exchange trading. - \$1 million~~
- ~~(4) Advising on corporate finance. - \$250,000~~
- ~~(5) Carrying out fund management — - -~~
 - ~~(a) of any collective investment scheme offered to any investor other than an accredited investor; - \$1 million~~
 - ~~(b) on behalf of any customer other than an accredited investor, whether on a discretionary authority granted by the - \$500,000~~

Proposed Amendment

- customer as settlement of, or a margin for, or to guarantee or secure, any purchase or sale of futures contract by that customer; or
- (f) the applicant — - \$250,000
- (i) does not carry any customer's positions in futures contracts, margins or accounts in its own books;
- (ii) trades in futures contracts only with accredited investors; and
- (iii) does not accept money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any purchase or sale of futures contract by that customer.
- (2A) Trading in commodity futures contracts only and —
 - (a) the applicant is a member of a clearing house authorised to operate a clearing facility for futures contracts, where the applicant's membership is limited to commodity futures contracts only; - \$1 million
 - (b) the applicant (not being an applicant to - \$500,000

<u>Existing Provision</u>		<u>Proposed Amendment</u>	
customer or otherwise; or		<u>which paragraph (d) or (e) applies) is a member of a futures exchange;</u>	
(e) in any other case.	- \$250,000	<u>(c) the applicant (not being an applicant to which paragraph (d) or (e) applies) is not a member of a futures exchange;</u>	<u>\$500,000</u>
(6) Carrying out securities financing.	- \$1 million	<u>(d) the applicant does not carry any customer's positions in commodity futures contracts, margins or accounts in its own books, and either—</u>	<u>\$250,000</u>
(7) Providing custodial services for securities.	- \$1 million.	<u>(i) carries on the business only of soliciting or accepting orders for the purchase or sale of any commodity futures contracts from any customer (not being an applicant to which paragraph (e) applies); or</u>	
		<u>(ii) accepts money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any purchase or sale of commodity futures contracts by that customer;</u>	
		<u>or</u>	
		<u>(e) the applicant—</u>	<u>\$250,000</u>
		<u>(i) does not carry any customer's positions in commodity futures contracts, margins or accounts in its own books;</u>	

Existing Provision

Proposed Amendment

with accredited investors; and

(iii) does not accept money or assets from any customer as settlement of, or a margin for, or to guarantee or secure, any purchase or sale of commodity futures contract by that customer.

(3) Carrying out leveraged foreign exchange trading. - \$1 million

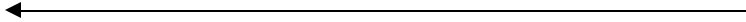
(4) Advising on corporate finance. - \$250,000

(5) Carrying out fund management — - -

(a) of any collective investment scheme offered to any investor other than an accredited investor; - \$1 million

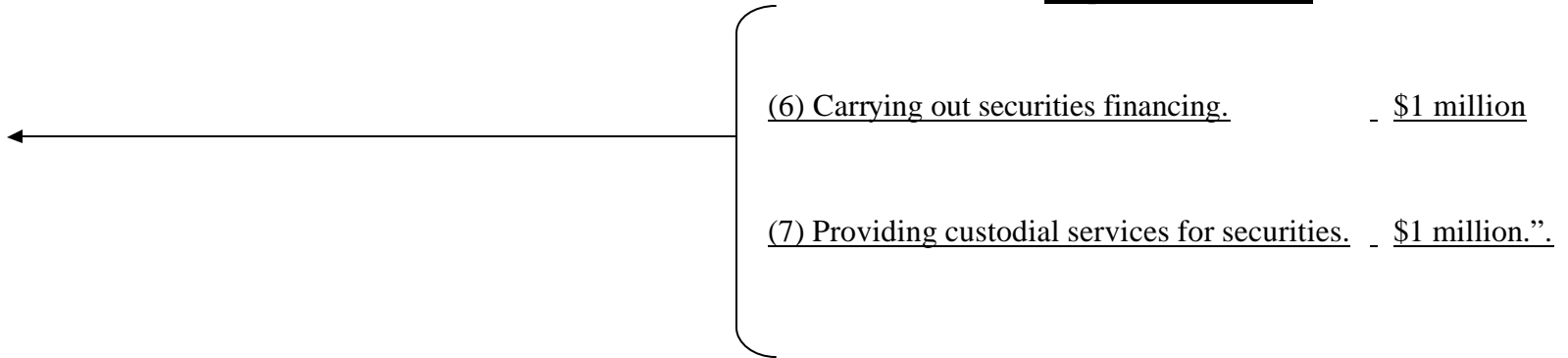
(b) on behalf of any customer other than an accredited investor, whether on a discretionary authority granted by the customer or otherwise; - \$500,000
or

(c) in any other case. - \$250,000



Existing Provision

Proposed Amendment



Existing Provision

Proposed Amendment

THIRD SCHEDULE

Regulation 2

**TOTAL RISK REQUIREMENT FOR HOLDER OF
LICENCE REFERRED TO IN REGULATION 5**

Operational risk requirement

2. —(1) The holder shall calculate an operational risk requirement as the sum of —

- (a) the base requirement as specified in sub-paragraph (2);
- (b) the variable requirement calculated in accordance with sub-paragraph (3); and
- (c) such secondary requirement as the Authority or the approved exchange or designated clearing house of which the holder is a member (if applicable) may impose on the holder.

by notice in writing to

- (2) The base requirement —
 - (a) in the case of a holder which is a member of a designated clearing house, is \$1 million, whether or not the holder is also a member of an approved exchange; and
 - (b) in any other case, is \$500,000.
- (3) The holder shall calculate a variable requirement as the product of —

Existing Provision

- (a) 8%; and
- (b) the sum of the following risk requirements:
 - (i) counterparty risk requirement calculated in accordance with paragraph 3;
 - (ii) position risk requirement calculated in accordance with paragraph 4; and
 - (iii) large exposure risk requirement calculated in accordance with paragraph 5.

Proposed Amendment