

**ANNEX 1: DRAFT SECURITIES AND FUTURES**  
**(AMENDMENT) BILL 2012**

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



## Short title and commencement

1. This Act may be cited as the Securities and Futures (Amendment) Act 2012 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

### 5 Amendment of section 2

2. Section 2 of the Securities and Futures Act (referred to in this Act as the principal Act) is amended –

10 (a) by deleting the definition of “closed-end fund” in subsection (1) and substituting the following definition:

“ “closed-end fund” means an arrangement referred to in paragraph (a) or (b) of the definition of “collective investment scheme” under which units that are issued are exclusively or primarily non-redeemable at the election of the holders of units, but does not include –

15 (a) an arrangement referred to in paragraph (a) of that definition –

(i) that is a trust;

20 (ii) that invests primarily in real estate and real estate-related assets specified by the Authority in the Code on Collective Investment Schemes; and

25 (iii) all or any units of which are listed for quotation on a securities exchange; or

30 (b) an arrangement referred to in paragraph (a) of that definition which is an arrangement, or is of a class or description of arrangements, specified by the Authority as not constituting a closed-end fund by notice published in the *Gazette*.”;

35 (b) by deleting the definition of “principal” in subsection (1) and substituting the following definition:

5 “ “principal” , in relation to a representative, means a person whom the representative is in the direct employment of, acting for or by arrangement with, and for whom the representative is or will be, carrying out any regulated activity;”.

**Amendment of section 38**

3. Section 38 of the principal Act is amended by deleting subsection (b).

10 **Amendment of section 95**

4. Section 95 of the principal Act is amended –

(a) by inserting, immediately after paragraph (b) of subsection (2), the following paragraph:

15 “(ba) the Authority has reason to believe that the holder has not acted in the best interests of its subscribers or customers;”; and

(b) by inserting, immediately after paragraph (d) of subsection (2), the following paragraph:

20 “(da) it appears to the Authority that the holder has failed to satisfy any of its obligations under or arising from this Act (including any written direction issued by the Authority under this Act);”.

**Amendment of section 99H**

25 5. Section 99H of the principal Act is amended by inserting, immediately after subsection (1), the following subsection:

“(1A) Subsection (1) shall not apply to the principal of an individual who is a provisional representative in respect of a type of regulated activity if:

30 (a) that individual has satisfied the examination requirements specified for that type of regulated activity; and

- (b) the principal has informed the Authority of that fact in the prescribed form and manner under section 99E(5).”.

**Amendment of section 99K**

- 5       **6.** Section 99K of the principal Act is amended by deleting subsection (2) and substituting the following subsection:

10               “(2) An individual who is an appointed or provisional representative in respect of a type of regulated activity shall, by the prescribed time each year, pay such annual fee for that type of regulated activity as may be prescribed by the Authority in relation to the retention of his name in the public register of representatives as an appointed or provisional representative in respect of that type or types of regulated activities.”.

15       **Amendment of section 99M**

- 7.** Section 99M(1) of the principal Act is amended –

- (a) by deleting the words “of licence,” in sub-paragraph (h)(i);
- 20       (b) by inserting, immediately after the words “will not carry” in sub-paragraph (h)(iii), the words “or has not carried”;
- (c) by inserting, immediately after sub-paragraph (h)(iii), the following sub-paragraph:
- 25               “(iv) the Authority has reason to believe that he has not acted in the best interests of the subscribers or customers of his principal;” and
- (d) by inserting, immediately after paragraph (o), the following paragraph:
- 30               “(oa) it appears to the Authority that he has failed to satisfy any of its obligations under or arising from this Act (including any written direction issued by the Authority under this Act);”.

**Amendment of section 101**

8. Section 101(1) of the principal Act is amended by deleting, immediately after the words “necessary or expedient in the”, the words “public interest” and substituting the words “interests of the public or a section of the public or for the protection of investors”.

5 **Amendment of section 101A**

9. Section 101A of the principal Act is amended –

(a) by inserting, immediately after paragraph (c) of subsection (1), the following paragraph:

10 “(ca) in the case of a person (other than a person referred to in subsection (cc)) who is or was a representative of an exempt person, the Authority has reason to believe that circumstances exist under which, if the person was an appointed, provisional or temporary representative, there  
15 would exist a ground on which the Authority may revoke his status as an appointed, provisional or temporary representative (as the case may be) under section 99M;

20 (cb) in the case of a person (other than a person referred to in subsection (cc)) who is or was a representative of a holder of a capital markets services licence, the Authority has reason to believe that circumstances exist under which, there would exist a ground on which the  
25 Authority may revoke his status as an appointed, provisional or temporary representative (as the case may be) under section 99M;

30 (cc) in the case of a person who is or was a representative of an exempt person or a holder of a capital markets services licence, and exempt from the requirement in section 99B(1) pursuant to section 99B(2), the Authority has reason to believe that circumstances exist under which, if the person was an appointed representative, there  
35 would exist a ground on which the Authority may

revoke his status as an appointed representative under section 99M;”;

- (b) by deleting paragraph (*d*) and substituting the following paragraph:

5 “(*d*) the Authority has reason to believe that the person is contravening, is likely to contravene or has contravened -

- (i) any provision of this Act;
- (ii) any condition or restriction imposed by the Authority under this Act; or
- 10 (iii) any written direction issued by the Authority under this Act;”;

- (c) by deleting the words “(*f*), (*g*) or (*h*)” in subsection (2)(*c*); and

- 15 (d) by inserting, immediately after paragraph (*d*) in subsection (2), the following paragraph:

“(*da*) a representative exempt from section 99B(1) or a person who was previously such a representative;”.

20 **Amendment of section 104**

**10.** Section 104(1) of the principal Act is amended by deleting paragraph (*a*) and substituting the following paragraph:

25 “(*a*) do so on the basis that the money or other assets shall be applied solely for such purpose as may be agreed to by the customer except in such circumstances as may be prescribed by the Authority, when or before it receives the money or other assets;”.

**Amendment of section 123**

30 **11.** Section 123(2) of the principal Act is amended by deleting paragraph (*aa*) and substituting the following paragraph:

“(*aa*) specify items which constitute an unsecured advance, unsecured loan or unsecured credit facility, and specify requirements and restrictions relating to, the

granting of such unsecured advance, unsecured loan or unsecured credit facility by the holder of a capital markets services licence;”.

### **Amendment of section 152**

- 5       **12.** Section 152(6) of the principal Act is amended by inserting, immediately after the words “Subdivision (2)”, the words “or Subdivision (3)”.

### **Amendment of section 153**

**13.** Section 153 of the principal Act is amended –

- 10           (a) by inserting, immediately after the words “Subdivision (2)” in subsection (1), the words “or Subdivision (3)”; and
- (b) by inserting, immediately after the words “Subdivision (2)” in subsection (2), the words “or
- 15           Subdivision (3)”.

### **New section 163A**

**14.** The principal Act is amended by inserting, immediately after section 163, the following section:

#### **“Power to enter premises without warrant**

20           **163A.** – (1) In connection with an investigation under this Division, any officer of the Authority who is authorised by the Authority to do so (referred to in this section as an investigator) and such other officers or persons as the Authority has authorised in writing to

25           accompany the investigator (referred to in this section as authorised person) may enter any premises.

(2) No investigator or authorised person shall enter any premises in the exercise of the powers under this section unless the investigator has given the occupier of the

30           premises a written notice which —

- (a) gives at least 2 working days’ notice of the intended entry;



- (b) indicates the subject matter and purpose of the investigation; and
- (c) indicates the nature of the offences created by section 168.

5 (3) Subsection (2) shall not apply —

- (a) if the investigation relates to a contravention referred to in section 152(1)(c) and the investigator has reasonable grounds for suspecting that the premises are, or have been, occupied by a person which is being investigated in relation to the contravention; or
- (b) if the investigator has taken all such steps as are reasonably practicable to give notice but has not been able to do so.

15 (4) Where subsection (3) applies, the power of entry conferred by subsection (1) shall be exercised upon production of —

- (a) evidence of the investigator's authorisation and the authorisation of every authorised person accompanying him; and
- (b) a document containing the information referred to in subsection (2)(b) and (c).

(5) An investigator or authorised person entering any premises under this section may —

- (a) take with him such equipment as appears to him to be necessary;
- (b) require any person on the premises to produce any book which he considers relates to any matter relevant to the investigation;
- (c) require any person to state, to the best of his knowledge and belief, where any such book is to be found; and
- (d) take any step or issue any requirement to any person which appears to be necessary for the

purpose of preserving or preventing interference with any book which he considers relates to any matter relevant to the investigation.”.

5 **Repeal and re-enactment of section 164**

15 **15.** Section 164 of the principal Act is repealed and the following section substituted therefore:

**“Application for warrant to seize books not produced**

10 **164.** – (1) The Authority may apply to a Magistrate for a warrant and the Magistrate may issue such a warrant if he is satisfied that there are reasonable grounds to suspect that there is, on any particular premises, any book –

15 (a) the production of which has been required under section 163 or 163A, and which has not been produced in compliance with that requirement; or

20 (b) which the Authority has power under section 163 to require to be produced and if the books were required to be produced, they would not be produced but would be concealed, removed, tampered with or destroyed.

25 (2) A warrant under this section shall authorise the Authority or any person named therein, with or without assistance –

(a) to enter the premises specified in the warrant, using such force as is reasonably necessary for the purpose;

30 (b) to search the premises and to break open and search anything, whether a fixture or not, in the premises;

(c) to take possession of, or secure against interference, any book that appears to be a

book of a kind in respect of which the application under subsection (1) was granted;

5 (d) to require any person to provide an explanation of any book that appears to be a book of a kind in respect of which the application under subsection (1) was granted, or to state, to the best of his knowledge and belief, where it may be found;

10 (e) to search any person on those premises if there are reasonable grounds for believing that that person has in his possession any book, equipment or article which has a bearing on the investigation concerned; and

15 (f) to remove from those premises for examination any equipment or article which relates to any matter relevant to the investigation concerned.

20 (3) If, in the case of a warrant issued under subsection (2), the Magistrate is satisfied that it is reasonable to suspect that there are also on the premises other books relating to the investigation concerned, the warrant shall also authorise the actions mentioned in subsections 2(a) to (f) to be taken in relation to any such book.

25 (4) The Authority or any person named in the warrant may allow any equipment or article which has a bearing on an investigation and which may be removed from any premises for examination under subsection (2)(f) to be retained on those premises subject to such conditions as the Authority or person named in the warrant may require.

30 (5) Any person entering premises by virtue of a warrant under this section may take with him such equipment as appears to him to be necessary.

35 (6) Where a warrant is issued under subsection (2) and there is no one at the premises when the Authority or any person named in the warrant proposes to execute such a

warrant, the Authority or any person named in the warrant shall, before executing it –

5           (a) take such steps as are reasonable in all the circumstances to inform the occupier of the intended entry; and

          (b) if the occupier is informed, afford him or his legal or other representative a reasonable opportunity to be present when the warrant is executed.

10           (7) if the Authority or any person named in the warrant is unable to inform the occupier of the intended entry, the Authority or any person named in the warrant shall, when executing the warrant, leave a copy of it in a prominent place on the premises.

15           (8) On leaving any premises which the Authority or any person named in the warrant has entered by virtue of a warrant under this section, the Authority or any person named in the warrant shall, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured as the Authority or any  
20           person named in the warrant found them.

(9) The powers conferred under subsections (1) to (5) are in addition to, and not in derogation of, any other powers conferred by any other written law or rule of law.

25           (10) In this section,  
          “premises” includes any structure, building, aircraft, vehicle or vessel.

          “occupier”, in relation to any premises, means a  
30           person whom the Authority or any person named in the warrant reasonably believes is the occupier of those premises.”.

**Amendment of section 165**

**16.** Section 165 of the principal Act is amended –

- (a) by inserting, immediately after paragraph (a) in subsection (1), the following paragraph:

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“(ai) books are produced to the Authority during an entry into premises under section 163A;”;

- (b) by inserting, immediately after the words “subsection (1)(a)” in subsection (2), the words “or (ai)”;

- (c) by deleting the fullstop and substituting the word “; and” at the end of paragraph (c) in subsection (3);

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- (d) by inserting, immediately after paragraph (c) in subsection (3), the following paragraph:

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“(d) require any book which is stored in any electronic form and which the Authority or, where applicable, a person referred to in subsection (1)(b) considers relates to any matter relevant to the investigation concerned, to be produced in a form –

(i) in which it can be taken away; and

(ii) in which it is visible and legible.”; and

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- (e) by inserting, immediately after the words “subsection (1)(a)” in subsection (7)(a), the words “or (ai)”.

### **Amendment of section 168**

**17.** Section 168 of the principal Act is amended –

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- (a) by inserting, immediately after the words “comply with any requirement” in subsection (1), the words “or condition”;

- (b) by deleting the words “section 163, 165(7) or 166” in subsection (1) and substituting the words “section 163, 163A(5), 164(2)(d), 165(3)(d) or (7), or 166”;

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- (c) by inserting, immediately after the word “book” throughout subsection (4), the words “, equipment or article”;

- (d) by inserting, immediately after the words “obstructs or hinders a person who is” in subsection (5), the

words “exercising the power of entry under section 163A or”;

- 5 (e) by inserting, immediately after the words “a person enters” in subsection (6), the words “under section 163A or”; and
- (f) by inserting, immediately after the words “exercise of his powers” in subsection (6), the words “under section 163A or”; and
- 10 (g) by inserting, immediately after the words “under the warrant” in subsection (6), the words “issued under section 164”.

### **Amendment of section 197**

**18.** Section 197 of the principal Act is amended –

- 15 (a) by deleting subsection (1) and substituting the following subsection:

“(1) No person shall do an act, cause anything to be done or engage in any course of conduct –

- 20 (a) if his purpose, or any one of his purposes, for doing so is to create a false or misleading appearance —

(i) of active trading in any securities on a securities market; or

25 (ii) with respect to the market for, or the price of, such securities; or

- (b) that creates, or is likely to create, a false or misleading appearance –

30 (i) of active trading in any securities on a securities market; or

(ii) with respect to the market for, or the price of, such securities,

if he

- 5 (A) knows that;
- (B) does not care whether; or
- (C) ought reasonably to have known that,
- 10 by doing so, it will, or will be likely to, result in the false or misleading appearance.”;

(b) by inserting, immediately after subsection (1), the following subsection:

15 “(1A) Notwithstanding section 204, a contravention of subsection (1)(b)(C) shall not be an offence.”;

(c) by deleting the words “shall be deemed to have created” in subsection (3) and substituting the words “shall be presumed to have had the purpose of creating”; and

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(d) by deleting the words “In any proceedings against a person for a contravention of subsection (1) because of an act referred to in subsection (3), it is a defence” in subsection (4) and substituting the words “The presumption in subsection (3) may be rebutted”.

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### **Amendment of section 206**

**19.** Section 206 of the principal Act is repealed and the following section substituted therefore: –

#### **“False Trading**

30 **206.** – (1) No person shall do an act, cause anything to be done or engage in any course of conduct –

(a) if his purpose or any one of his purposes for doing so is to create, a false or misleading appearance –

(i) of active trading in any futures contract on a futures market or in connection with leveraged foreign exchange trading; or

5 (ii) with respect to the market for, or the price of futures contracts on a futures market or foreign exchange in connection with leveraged foreign exchange trading; or

10 (b) that creates, or is likely to create, a false or misleading appearance —

(i) of active trading in any futures contract on a futures market or in connection with leveraged foreign exchange trading; or

15 (ii) with respect to the market for, or the price of futures contracts on a futures market or foreign exchange in connection with leveraged foreign exchange trading;

20 if he

(A) knows that;

(B) does not care whether, or

25 (C) ought reasonably to have known that,

by doing so, it will, or will be likely to, result in the false or misleading appearance.

(2) Notwithstanding section 212, a contravention of subsection (1)(b)(C) shall not be an offence.”.

30 **Amendment of section 234**

**20.** Section 234 of the principal Act is amended —

(a) by deleting the word “A” at the beginning of subsection (1) and substituting the words “Subject to subsection (1A), a”;



(b) by deleting sub-paragraph (1)(b)(ii) and substituting the following sub-paragraph:

5 “(ii) the price at which the securities, futures contracts or contracts in connection with leveraged foreign exchange trading would have been likely to have been so dealt in or traded at the time of the contemporaneous dealing or trading if –

10 (A) in the case of a contravention of section 218 or 219, the information referred to in section 218(1) or 219(1) had been generally available; and

15 (B) in the case of any other contravention of this Part, the contravention had not occurred.”;

(c) by inserting, immediately after subsection (1), the following subsection:

20 “(1A) Where –  
(a) the contravening person has contravened section 199, 200, 201, 209 or 210 by -

25 (i) making, disseminating or publishing any false, misleading or deceptive statement, information, promise or forecast; or

(ii) concealing or omitting to state material facts; and

30 (b) the claimant had, in reliance on the statement, information, forecast, concealment or omission, entered (whether contemporaneously with the contravention or otherwise) into the subscription, purchase sale or contract,  
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5 the contravening person shall, whether or not he had gained a profit or avoided a loss as a result of the contravention and whether or not he had been convicted or had a civil penalty imposed on him in respect of that contravention, be liable to pay compensation to the claimant.”;

(d) by deleting subsection (2) and substituting the following subsection:

10 “(2) Subject to section (2A), the amount of compensation that the contravening person is liable to pay to the claimant is –

15 (a) in the case of a contravention referred to in subsection (1), the amount of the loss suffered by the claimant as stated in paragraph (b) of that subsection, up to the maximum recoverable amount; and

20 (b) in the case of a contravention referred to in subsection (1A), any loss that reasonably results from the claimant’s reliance on the statement, information, forecast, concealment or omission,

25 after deducting any amount of compensation paid or payable to the same claimant in respect of the same contravention under an order of court or an agreement to pay by any defendant, defendant corporation or defendant partnership under Division 5 or under an order for disgorgement under section 236L.

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(2A) In the case of a contravention referred to in subsection (1A), a claimant who also –

35 (i) satisfies the requirement of contemporaneity in subsection (1)(a); and

(ii) has suffered the loss described in subsection (1)(b),

may choose to claim compensation under subsection (2)(a) or (2)(b), but not both, in respect of the same contravention.”;

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(e) by deleting the word “contemporaneous” immediately after the words “completion of the” in subsection (4); and

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(f) by inserting, immediately after the words “in respect of the same contravention” in subsection (6), the words “but not including such amount of compensation paid or payable by the contravening person under subsection (2)(b)”.

#### **Amendment of section 236**

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**21.** Section 236 of the principal Act is amended –

(a) by deleting the words “which resulted in his gaining a profit of avoiding a loss,” in subsection (1);

(b) by deleting subsection (3) and substituting the following subsection:

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“(3) The relevant court may, after the expiry of the date fixed under subsection (1), make an order against the contravening person to pay compensation to each claimant who has filed and proven his claim for compensation, provided that for claims quantified under subsection 234(2)(a), the compensation amount shall be —

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(a) equal to the amount of compensation which that claimant has proven to the satisfaction of the court that he would have been entitled to if he had brought an action under section 234 against the contravening person himself; or

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5 (b) equal to the pro-rated portion of the maximum recoverable amount, calculated according to the relationship which the amount referred to in paragraph (a) bears to amounts of all other claims under section 234(2)(a) which have been proved to the court,

whichever is the lesser.”;

10 **Amendment of section 236D**

**22.** Section 236D of the principal Act is amended by deleting sub-paragraph (1)(b)(ii) and substituting the following sub-paragraph:

15 “(ii) the price at which the securities, futures contracts or contracts or arrangements in connection with leveraged foreign exchange trading would have been likely to have been so dealt in or traded at the time of the contemporaneous dealing or trading if –

20 (A) in the case of a contravention of section 218 or 219, the information referred to in section 218(1) or 219(1) had been generally available; and

(B) in the case of any other contravention of this Part, the contravention by the contravening person had not occurred.”.

25 **Amendment of section 236G**

**23.** Section 236G of the principal Act is amended by deleting sub-paragraph (1)(b)(ii) and substituting the following sub-paragraph:

30 “(ii) the price at which the securities, futures contracts or contracts or arrangements in connection with leveraged foreign exchange trading would have been likely to have been so dealt in or traded at the time of the contemporaneous dealing or trading if –

- (A) in the case of a contravention of section 218 or 219, the information referred to in section 218(1) or 219(1) had been generally available; and
- 5 (B) in the case of any other contravention of this Part, the contravention by the contravening person had not occurred.”.

#### **Amendment of section 236I**

24. Section 236I of the principal Act is amended by deleting sub-paragraph (1)(b)(ii) and substituting the following sub-paragraph:

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“(ii) the price at which the securities, futures contracts or contracts or arrangements in connection with leveraged foreign exchange trading would have been likely to have been so dealt in or traded at the time of the contemporaneous dealing or trading if –

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- (A) in the case of a contravention of section 218 or 219, the information referred to in section 218(1) or 219(1) had been generally available; and
- (B) in the case of any other contravention of this Part,
- 20 the contravention by the contravening person had not occurred.”.

#### **Amendment of section 237**

25. Section 237 of the principal Act is amended –

- (a) by inserting, immediately after the words “determine any action”, the words “or application”; and
- 25 (b) by deleting the words “or any application under section 236L”.

#### **Amendment of section 238**

26. Section 238(1)(a) of the principal Act is amended by deleting the words “or any application under section 236L”.

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#### **Amendment of section 239**

27. Section 239 of the principal Act is amended —

(a) by inserting, immediately after the definition of “preliminary document” in subsection (1), the following definition:

5                   “ “product highlights sheet” means a product highlights sheet referred to in section 240AA;” and

10                   (b) by deleting and substituting the definition of “prospectus” in subsection (1), with the following definition:

15                   “ “prospectus” means any prospectus, notice, circular, material, advertisement, publication or other document used to make an offer of securities, and includes any document deemed to be a prospectus under section 257, but does not include —

- 20                   (a) a profile statement;
- (b) any material, advertisement or publication which is authorised by section 251 (other than subsection (5)); or
- (c) a product highlights sheet;”.

**New section 240AA**

25                   28. The principal Act is amended by inserting, immediately after section 240, the following section:

**“Requirement for product highlights sheet**

30                   **240AA.** — (1) Subject to subsection (2), no person shall make an offer of debentures or units of debentures that is made in or accompanied by a prospectus or profile statement that complies with section 240, unless the prospectus or profile statement, as the case may be, is accompanied by a product highlights sheet in respect of the offer —

- 35                   (a) that complies with such requirements as may be prescribed by the Authority; and

(b) a copy of which is lodged with the Authority.

(2) Subsection (1) shall not apply to debentures or units of debentures other than —

(a) asset-backed securities; or

5 (b) structured notes.

(3) In this section —

“asset-backed securities” has the same meaning as in section 262(3);

10 “single purpose vehicle” means an entity that is established solely in order to, or a trust that is established solely in order for its trustee to, do either or both of the following:

15 (a) act as counterparty to arrangements which involve the use of derivatives to create exposure to assets from which payments to holders of any structured notes are or will be primarily derived;

(b) issue any structured notes;

“specified financial institution” means —

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

25 (b) any entity, or any entity of a class, specified by the Authority by notification published in the *Gazette* to be an entity, or an entity of a class, for the purposes of issuing structured notes;

“structured notes” means any type of debentures or units of debentures —

(a) which are issued —

30 (i) pursuant to a synthetic securitisation transaction; or

- (ii) by a specified financial institution;  
and

(b) in respect of which —

- 5 (i) either or both of the principal sum  
and any interest are payable;
- (ii) one or more of the underlying  
securities, equity interests,  
commodities and currencies are to  
be physically delivered; or
- 10 (iii) either or both of the principal sum  
and any interest are payable, and  
one or more of the underlying  
securities, equity interests,  
commodities and currencies are to  
15 be physically delivered,

in accordance with a formula based on one  
or more of the following:

- 20 (A) the performance of any type of  
securities, equity interest,  
commodity or index, or of a basket  
of more than one types of  
securities, equity interests,  
commodities or indices;
- 25 (B) the credit risk or performance of  
any entity or a basket of entities;
- (C) the movement of interest rates or  
currency exchange rates;

30 “synthetic securitisation transaction” means an  
arrangement involving the use of derivatives to create  
exposure to assets that are not transferred to or are  
otherwise a part of an asset pool held by a single  
purpose vehicle;

(4) Except where compelled to do so by the laws or courts of  
Singapore or any territory outside Singapore, or any listing



5 rules or other requirements of a securities exchange, futures  
exchange, overseas securities exchange or overseas futures  
exchange, no person shall publish or disseminate any  
advertisement, whether in or outside Singapore, on an offer  
or intended offer of debentures or units or debentures, which  
resembles or may otherwise be confused with a product  
highlights sheet.

(5) The Authority may, for public information, publish —

- 10 (a) a product highlights sheet lodged with the  
Authority under this section; and
- (b) where applicable, the translation thereof in the  
English language submitted to the Authority  
under section 318A(1).

15 (6) Any person who contravenes subsection (1) or (4) shall  
be guilty of an offence and shall be liable on conviction to a  
fine not exceeding \$50,000 or to imprisonment for a term not  
exceeding 12 months or to both and, in the case of a  
continuing offence, to a further fine not exceeding \$5,000 for  
every day or part thereof during which the offence continues  
20 after conviction. ”

### **Amendment of section 251**

**29.** Section 251 of the principal Act is amended –

- (a) by deleting subsection (4) and substituting the  
following subsection:

25 “(4) Notwithstanding subsection (6), a person does  
not contravene subsection (1) by presenting,  
before a prospectus or profile statement is  
registered by the Authority, oral or written  
material —

- 30 (a) on matters contained in a preliminary  
document which has been lodged with  
the Authority, to institutional investors,  
relevant persons as defined in section  
275(2) or persons to whom an offer

referred to in section 275(1A) is to be made; or

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- (b) on matters contained in the prospectus, profile statement or product highlights sheet which has been lodged with the Authority in respect of an offer of debentures or units of debentures, for the sole purpose of equipping any of the following persons with knowledge of the debentures or units of debentures in order for these persons to carry on the regulated activity of dealing in securities or provide any financial advisory service as defined under the Financial Advisers Act (Cap. 110), in relation to the debentures or units of debentures:
- (i) a person licensed under this Act in respect of dealing in securities;
  - (ii) an exempt person;
  - (iii) a person who is a representative in respect of dealing in securities under this Act;
  - (iv) a representative of an exempt person;
  - (v) a person licensed under the Financial Advisers Act (Cap. 110) in respect of advising on corporate finance;
  - (vi) an exempt financial adviser;
  - (vii) a person who is a representative in respect of advising on corporate finance under the Financial Advisers Act (Cap. 110); or
  - (viii) a representative of an exempt financial adviser.

(4A) Subsection (4)(b) shall only apply in respect of offers of debentures or units of debentures that are Specified Investment Products.

(4B) In subsection (4) and (4A) —

5 (a) “exempt financial adviser” has the same meaning as in section 2(1) of the Financial Advisers Act (Cap. 110);

(b) “representative” —  
 10 (i) for the purposes of sub-paragraph (b) (iii) and (iv), has the same meaning as in section 2(1); and

(ii) for the purposes of sub-paragraph (b) (vii) and (viii), has the same meaning as in section 2(1) of the  
 15 Financial Advisers Act (Cap. 110); and

(c) “Specified Investment Products” has the same meaning as in the Securities and  
 20 Futures (Prescribed Class of Products) Regulations 2012.”;

(b) by deleting subsection (5) and substituting the following subsection:

25 “(5) For the avoidance of doubt, a person may disseminate a prospectus or profile statement that has been registered by the Authority under section 240, or a product highlights sheet that complies with section 240AA(1) without contravening subsection (1).”; and

(c) by deleting subsection (8) and substituting the  
 30 following subsection:

“(8) After a prospectus or profile statement is registered with the Authority, an advertisement or a publication does not contravene subsection (1) if  
 —

- 5 (a) it includes a statement that the prospectus or profile statement in respect of the offer of securities is available for collection at the times and places specified in the statement;
- 10 (b) it includes a statement that anyone wishing to acquire the securities will need to make an application in the manner set out in the prospectus or profile statement;
- (c) it does not contain any information that is not included in the prospectus or profile statement; and
- 15 (d) it complies with such requirements as may be prescribed by the Authority.”.

(d) by deleting paragraph (e) in subsection (9) and substituting the following paragraph:

- 20 “(e) is a news report, or a genuine comment, by a person other than any person referred to in paragraph (f) (i), (ii), (iii) or (iv), in a newspaper, periodical or magazine or on radio, television, or any other means of broadcasting or communication, relating to —
- 25 (i) a prospectus or profile statement that has been lodged with the Authority or information contained in such a prospectus or profile statement;
- (ii) a disclosure, notice or report referred to in paragraph (a);
- 30 (iii) a notice, report, presentation, general meeting or proposed general meeting referred to in paragraph (b);
- (iv) a report referred to in paragraph (c); or
- (v) a product highlights sheet;”.

### **New section 265A**

30. The principal Act is amended by inserting, immediately after section 265, the following section therefore:

**“Requirement for trustees**

5           **265A.**—(1) Where an offer of debentures is made in or accompanied by a prospectus, the borrowing entity shall appoint a trustee for the holders of debentures (referred to in this section as appointed trustee) and ensure that a trustee is appointed for the entire tenure of the debentures.

10           (2) For the avoidance of doubt, subsection (1) shall not apply to an offer which is made pursuant to an exemption under Subdivision (4) of this Division.

(3) The borrowing entity shall ensure that the appointed trustee –

(a) is an entity that is –

15           (i) a holder of a trust business licence under the Trust Companies Act (Cap. 336); or

(ii) exempt from holding a trust business licence under the Trust Companies Act (Cap. 336);

20           (b) meet such requirements as may be prescribed by the Authority;

(c) in respect of debentures issued as asset-backed securities or structured notes by an entity other than a specified financial institution, be carrying on business in Singapore; and

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(d) in respect of debentures issued by a specified financial institution, be carrying on business in Singapore unless the borrowing entity is reasonably satisfied that the trustee can and will take timely and appropriate action on behalf of the holders of debentures in the event of a default or as required by the trust deed.

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(4) For the purposes of subsection (3)(d), the borrowing entity shall, in determining whether the trustee can and will take timely and appropriate action on behalf of the holders of

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debentures in the event of a default or as required by the trust deed, consider among other things –

- (i) whether the trustee is licensed or regulated in its home jurisdiction;
- 5 (ii) the contractual arrangements between the borrowing entity and the trustee; and
- (iii) the duties imposed on the trustee by way of the trust deed and the laws applicable to the trustee.

10 (5) Any person who fails to comply with subsection (1), (3) or (4) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the  
15 offence continues after conviction.

(6) In this section —

“asset-backed securities” has the same meaning as in section 262(3);

20 “structured notes” has the same meaning as in section 240AA(3);

“specified financial institution” has the same meaning as in section 240AA(3).”.

### **Amendment of section 266**

25 **31.** Section 266 of the principal Act is amended by inserting as subsection (1), the following subsection:

“(1) A trustee for the holders of debentures shall —

- (a) be independent of the borrowing entity, guarantor entity, arranger and counterparty of the debentures;
- 30 (b) at all times exercise all due diligence and vigilance in carrying out its functions and duties, and in safeguarding the rights and interests of the holders of debentures;

- (c) ensure that it has the ability and powers to perform all its duties as set out in the trust deed;
- 5 (d) ensure that where there is a trustee appointed for the holders of collateral (upon which the debentures are secured), the trustee appointed for the holders of collateral is subject to duties that are equivalent to, or higher than, those imposed on the trustee for the holders of debentures; and
- 10 (e) comply with such other requirements as may be prescribed or imposed by the Authority in respect of a particular offer or transaction.”.

#### **Amendment of section 268**

15 **32.** Section 268 of the principal Act is amended –

- (a) by deleting subsections (1), (2), (3) and subsection (9)(a); and
- (b) by deleting the words “with the Authority and” in subsection (6); and
- 20 (c) by inserting, immediately after subsection (9), the following subsection:
- “*(9A)* Any person who furnishes information in the profit and loss account and balance-sheet required under section 268(6) shall use due care to ensure that the information is not false or misleading in any material particular.”.
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#### **New section 268A**

**33.** The principal Act is amended by inserting immediately after section 268, the following section therefore:

- 30 **“Obligations of borrowing entities of debentures that are not listed on securities exchange**
- 268A.**—(1) A borrowing entity of debentures which are not listed on a securities exchange (referred to in this section as unlisted debentures) shall prepare and make available to

holders of the debentures semi-annual reports covering every six month period commencing from the date of issuance of the debentures, in accordance with this section and such requirements as may be prescribed by the Authority.

5 (2) Where there is a trustee for the holders of unlisted debentures, the borrowing entity shall ensure that the semi-annual reports required under subsection (1) are lodged with the trustee.

10 (3) Where the borrowing entity does not lodge with the trustee for the holders of unlisted debentures a report as required by subsection (2), the trustee shall immediately lodge notice of that fact with the Authority.

15 (4) Subsections (1), (2) and (3) shall only apply in the case where the unlisted debentures have a tenure of 12 months or longer.

(5) A borrowing entity shall immediately disclose to holders of unlisted debentures any information which may materially affect –

(a) the risks and returns; or

20 (b) the price or value,

of the unlisted debentures.

25 (6) Any person who fails to comply with subsections (1), (2) and (5) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$20,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,000 for every day or part thereof during which the offence continues after conviction.

30 (7) Where the terms of the unlisted debentures allow for redemption at the option of the holder of the unlisted debentures, the borrowing entity shall –

(a) make available bid or redemption prices of the unlisted debentures –



- (i) at the frequency at which the borrowing entity has committed to buying back the unlisted debentures or once every fortnight, whichever is more frequent;
- 5 (ii) on its website or, in the case where the redemption option is made available through its distributors, the distributors' websites;
- 10 (b) where the published bid prices are indicative and may not be the actual bid prices, clearly state this fact on the borrowing entity's website or the distributors' websites referred to in subparagraph (a)(ii);
- 15 (c) clearly disclose to holders of unlisted debentures the address of the website or websites referred to in subparagraph (a)(ii), and the frequency with which bid or redemption prices referred to in subparagraph (a)(i) are updated; and
- 20 (d) ensure that the bid or redemption prices are determined in an independent and fair manner.

(8) A borrowing entity shall –

- 25 (a) ensure that the semi-annual and annual profit and loss accounts and balance sheets required under section 268(6) are made available, either in printed form or through electronic means, to holders of unlisted debentures on the day of lodgment of the profit and loss statement or balance-sheet with the trustee; and
- 30 (b) immediately notify the holders of unlisted debentures of the release of the financial statements, stating how and where the financial statements can be accessed.

- 35 (9) Any person who fails to comply with subsections (7) and (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$15,000 and, in the case

of a continuing offence, to a further fine not exceeding \$1,000 for every day or part thereof during which the offence continues after conviction.

5 (10) Any person who furnishes information in the semi-annual report required under subsection (1) shall use due care to ensure that the information is not false or misleading in any material particular.

10 (11) Any person who contravenes subsection (10) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 2 years or to both.”.

### **New Subdivision (3A) of Division 1 of Part XIII**

15 **34.** The principal Act is amended by inserting, immediately after Subdivision (3) of Division 1 of Part XIII, the following Subdivision:

#### *“Subdivision (3A) – General*

#### **Authority may issue directions**

20 **271A.**—(1) The Authority may, where it appears to the Authority to be necessary or expedient in the public interest to do so, issue directions by notice in writing either of a general or specific nature to –

- 25 (a) a person making an offer of securities made in or accompanied by a prospectus or profile statement or an offer referred to in section 280, on matters in connection with the offer;
- 30 (b) in the case of a person referred to in paragraph (a) who is a borrowing entity, on matters in connection with requirements and obligations provided under Subdivision (3) of this Division, in addition to the matters referred to in paragraph (a); and
- (c) the trustee appointed pursuant to section 265A(1).

(2) Any person to whom a notice is given under subsection (1) shall comply with such direction as may be contained in the notice.

5 (3) It shall not be necessary to publish any direction in the *Gazette*.

(4) Any person who contravenes any of the directions issued to him under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for everyday or part thereof during which the offence continues after conviction.

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(5) No criminal or civil liability shall be incurred by a trustee or any person acting on behalf of a trustee for any thing done or omitted to be done with reasonable care and in good faith in the course of, or in connection with, complying with a direction issued under subsection (1).”.

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### **Amendment of section 273**

**35.** Section 273 of the principal Act is amended by inserting, immediately after subsection (8), the following subsections –

20 “(8A) An advertisement or publication prepared or issued in connection with an offer or intended offer of securities made under subsections (1)(d) and (1)(e) shall comply with such requirements as may be prescribed by the Authority.

(8B) Any person who contravenes subsection (8A) or who knowingly authorised or permitted the publication or dissemination in contravention of subsection (8A) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.”.

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### **Amendment of section 277**

**36.** 4. Section 277 of the principal Act is amended by inserting, after subsection (6), the following subsection –

5 “(7) An advertisement or publication prepared or issued in connection with an offer or intended offer of securities made under this section shall comply with such requirements as may be prescribed by the Authority.

10 (8) Any person who contravenes subsection (7) or who knowingly authorised or permitted the publication or dissemination in contravention of subsection (7) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues  
15 after conviction.”.

**Amendment of section 282L**

**37.** Section 282L of the principal Act is amended by deleting subsection (8) and substituting the following subsection:

20 “(8) After a prospectus or profile statement is registered with the Authority, an advertisement or a publication does not contravene subsection (1) if –

- 25 (a) it includes a statement that the prospectus or profile statement in respect of the offer of units or derivatives of units in the business trust is available for collection at the times and places specified in the statement;
- (b) it includes a statement that anyone wishing to acquire the units or derivatives of units in the business trust will need to make an application  
30 in the manner set out in the prospectus or profile statement;
- (c) it does not contain any information that is not included in the prospectus or profile statement;  
and

(d) it complies with such requirements as may be prescribed by the Authority.”.

**Amendment of section 282X**

5 **38.** Section 282X of the principal Act is amended by inserting, immediately after subsection (8), the following subsection:

“(8A) An advertisement or publication prepared or issued in connection with an offer or intended offer of securities made under subsections (1)(d) and (1)(e) shall comply with such requirements as may be prescribed by the Authority.

10 (8B) Any person who contravenes subsection (8A) or who knowingly authorised or permitted the publication or dissemination in contravention of subsection (8A) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not  
15 exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.”

**Amendment of section 282ZB**

20 **39.** Section 282ZB of the principal Act is amended by inserting, immediately after subsection (7), the following subsection:

“(8) An advertisement or publication prepared or issued in connection with an offer or intended offer of securities made under this section shall comply with such requirements as  
25 may be prescribed by the Authority.

(9) Any person who contravenes subsection (8) or who knowingly authorised or permitted the publication or dissemination in contravention of subsection (8) shall be guilty of an offence and shall be liable on conviction to a  
30 fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.”.

35 **New Subdivision (4A) of Division 1A of Part XIII**

**40.** The principal Act is amended by inserting, immediately after Subdivision (4) of Division 1 of Part XIII, the following Subdivision:

*“Subdivision (4A) – General*

5           **Authority may issue directions**

282ZG.—(1) The Authority may, where it appears to the Authority to be necessary or expedient in the public interest to do so, issue directions by notice in writing either of a general or specific nature to a person making an offer of  
10           units or derivatives of units in a business trust made in or accompanied by a prospectus or profile statement or an offer referred to in section 282ZC, on matters in connection with the offer.

15           (2) Any person to whom a notice is given under subsection (1) shall comply with such direction as may be contained in the notice.

          (3) It shall not be necessary to publish any direction in the *Gazette*.

20           (4) Any person who contravenes any of the directions issued to him under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for everyday or part thereof during which the offence continues after conviction.”.

25           **Amendment of section 283**

**41.** Section 283 of the principal Act is amended –

          (a) by inserting, immediately after the definition of “preliminary document” in subsection (1), the following definition:

30                           “ “product highlights sheet” means a product highlights sheet referred to in section 296A;”;  
                                  and

- (b) by deleting and substituting the definition of “prospectus” in subsection (1), with the following definition:

5 “ “prospectus” means any prospectus, notice, circular, material, advertisement, publication or other document used to make an offer of units in a collective investment scheme or proposed collective investment scheme, but does not include —

- 10 (a) a profile statement;
- (b) any material, advertisement or publication which is authorised by section 300 (other than subsection (3)); or
- 15 (c) a product highlights sheet;”.

#### **Amendment of section 286**

**42.** Section 286 of the principal Act is amended –

- (a) by inserting, immediately after subsection (1), the following subsections:

20 “(1A) The Authority may authorise a collective investment scheme constituted in Singapore subject to such conditions or restrictions as it thinks fit.

25 (1B) The Authority may, at any time, by notice in writing to the responsible person for a collective investment scheme authorised under subsection (1), vary or revoke any condition or restriction imposed pursuant to subsection (1A) or impose such further condition or restriction as it may think fit.”; and

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- (b) by inserting in subsection (10), immediately after the words “subsections (2), (3) and (4)”, the words “, and the conditions and restrictions imposed pursuant to subsections (1A) and (1B),”.

#### **35 Amendment of section 287**

**43.** Section 287 of the principal Act is amended –

- (a) by inserting, immediately after subsection (1), the following subsections:

5 “(1A) The Authority may recognise a collective investment scheme constituted outside Singapore subject to such conditions or restrictions as it thinks fit.

10 (1B) The Authority may, at any time, by notice in writing to the responsible person for a collective investment scheme recognised under subsection (1), vary or revoke any condition or restriction imposed pursuant to subsection (1A) or impose such further condition or restriction as it may think fit.”; and

- 15 (b) by inserting in subsection (9), immediately after the words “subsections (2) and (3)”, the words “, and the conditions and restrictions imposed pursuant to subsections (1A) and (1B),”.

**Amendment of section 289**

20 **44.** Section 289 of the principal Act is amended –

- (a) by inserting, immediately after subsection (1), the following subsections:

25 “(1A) The Authority may approve a public company to act as a trustee for collective investment schemes which are authorised under section 286 and constituted as unit trusts subject to such conditions or restrictions as it thinks fit.

30 (1B) The Authority may, at any time, by notice in writing to the approved trustee, vary or revoke any condition or restriction imposed pursuant to subsection (1A) or impose such further condition or restriction as it may think fit.”;



(b) by inserting in subsection (3), immediately after the words “shall continue to satisfy”, the words “the conditions and restrictions imposed pursuant to subsections (1A) and (1B), and”; and

5 (c) by inserting in subsection (4), immediately before paragraph (a), the following paragraph:

“(aa) has failed to satisfy a condition or restriction imposed pursuant to subsections (1A) or (1B);”.

10 **New Section 296A**

**45.** The principal Act is amended by inserting immediately after section 296, the following section:

**“Requirement for product highlights sheet**

15 **296A.**—(1) Subject to subsection (2), no person shall make an offer of units in a collective investment scheme that is made in or accompanied by a prospectus or profile statement that complies with section 296, unless the prospectus or profile statement, as the case may be, is accompanied by a product highlights sheet in respect of the offer –

- 20 (a) that complies with such requirements as may be prescribed by the Authority; and
- (b) a copy of which is lodged with the Authority.

(2) Subsection (1) shall not apply to a collective investment scheme —

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

(3) Except where compelled to do so by the laws or courts of Singapore or any territory outside Singapore, or any listing

5 rules or other requirements of a securities exchange, futures exchange, overseas securities exchange or overseas futures exchange, no person shall publish or disseminate any advertisement, whether in or outside Singapore, on an offer or intended offer of units in a collective investment scheme or proposed collective investment scheme, which resembles or may otherwise be confused with a product highlights sheet.

(4) The Authority may, for public information, publish –

10           (a) a product highlights sheet lodged with the Authority under this section; and

              (b) where applicable, the translation thereof in the English language submitted to the Authority under section 318A(1),

15 (5) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for

20 every day or part thereof during which the offence continues after conviction. ”.

### **Amendment of section 300**

**46.** Section 300 of the principal Act is amended —

25           (a) by deleting paragraph (2B)(b) and substituting the following paragraph:

30                                   “(b) on matters contained in the prospectus, profile statement or product highlights sheet which has been lodged with the Authority, for the sole purpose of equipping any of the following persons with knowledge of the collective investment scheme in order for these persons to carry on the regulated activity of dealing in securities or provide any financial advisory service as defined under the Financial Advisers Act (Cap. 110), in relation to the

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units of the scheme:

- (i) a person licensed under this Act in respect of dealing in securities;
- (ii) an exempt person;
- 5 (iii) a person who is a representative in respect of dealing in securities under this Act;
- (iv) a representative of an exempt person;
- 10 (v) a person licensed under the Financial Advisers Act (Cap.110) in respect of marketing of collective investment schemes;
- (vi) an exempt financial adviser;
- 15 (vii) a person who is a representative in respect of marketing of collective investment schemes under the Financial Advisers Act (Cap.110); and
- 20 (viii) a representative of an exempt financial adviser.”;

(b) by deleting subsection (2C) and substituting the following subsection:

“(2C) In subsection (2B) —

- 25 (a) “exempt financial adviser” has the same meaning as in section 2(1) of the Financial Advisers Act (Cap. 110);
- (b) “representative” —
- 30 (i) for the purposes of subparagraph (b) (iii) and (iv), has the same meaning as in section 2(1); and

- 5 (ii) for the purposes of sub-paragraphs (b) (vii) and (viii), has the same meaning as in section 2(1) of the Financial Advisers Act (Cap. 110).”;
- (c) by deleting subsection (3) and substituting the following subsection:
- 10 “(3) For the avoidance of doubt, a person may disseminate a prospectus or profile statement that has been registered by the Authority under section 296, or a product highlights sheet that complies with section 296A(1) without contravening subsection (1).”; and
- 15 (d) by deleting paragraph (c) of subsection (4) and substituting the following paragraph:
- 20 “(c) is a news report, or a genuine comment, by a person other than a person referred to in paragraph (d) (i), (ii), (iii) or (iv), in a newspaper, periodical or magazine or on radio or television, or any other means of broadcasting or communication, relating to —
- (i) a prospectus or profile statement that has been lodged with the Authority or information contained in such a prospectus or profile statement;
- 25 (ii) a disclosure, notice or report referred to in paragraph (a);
- (iii) a notice, report, presentation, meeting, proposed meeting, general meeting or proposed general meeting referred to in paragraph (aa);
- 30 (iv) a report referred to in paragraph (b); or
- (v) a product highlights sheet;”.

47. Section 303 of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

5 “(3) An advertisement or publication prepared or issued in connection with an offer or intended offer of units in a collective investment scheme made under subsection (1) shall comply with such requirements as may be prescribed by the Authority.

10 (4) Any person who contravenes subsection (3) or who knowingly authorised or permitted the publication or dissemination in contravention of subsection (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.”.

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#### **Amendment of section 305B**

48. Section 305B of the principal Act is amended by inserting, immediately after subsection (7), the following subsection:

20 “(8) An advertisement or publication prepared or issued in connection with an offer or intended offer of units in a collective investment scheme made under this section shall comply with such requirements as may be prescribed by the Authority.

25 (9) Any person who contravenes subsection (8) or who knowingly authorised or permitted the publication or dissemination in contravention of subsection (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding 12 months or to both and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.”.

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#### **New Part XIII A**

35 49. The principal Act is amended by inserting, immediately after Part XIII, the following Part:

**“Part XIII A**

**OFFERS OF CAPITAL MARKETS PRODUCTS**

**Interpretation of this Part**

5           **309A.** – (1) In this Part, unless the context otherwise requires –

                  “issuer”, in relation to an offer of capital markets products, means the entity that issued or will be issuing the capital markets product being offered;

10           “prospectus” means any prospectus, notice, circular, material, advertisement, publication or other document used to make an offer of a capital market product.

(2) For the purposes of this Part, a person makes an offer of capital markets products if, and only if, as principal —

15                   (a) he makes (either personally or by an agent) an offer to any person in Singapore which upon acceptance would give rise to a contract for the issue or sale of those capital markets products by him or another person with whom he has made arrangements for that issue or sale;

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                  (b) he invites (either personally or by an agent) any person in Singapore to make an offer which upon acceptance would give rise to a contract for the issue or sale of those capital markets products by him or another person with whom he has made arrangements for that issue or sale.

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(3) In subsection (2), “sale” includes any disposal for valuable consideration.

30           **Obligation to classify products and notify relevant persons**

**309B.** – (1) No issuer shall make an offer of a capital markets product unless he has –

- (a) determined whether the product belongs to such class of specified products as the Authority may prescribe;
- 5 (b) where the product is listed for quotation or quoted on a market operated by an approved exchange, notified the approved exchange in writing as to whether the product belongs to such class of specified products as the Authority may prescribe; and
- 10 (c) where an offer of the product is made through a holder of a capital markets services licence or through a financial adviser as defined in section 2 (1) of the Financial Advisers Act (Cap. 110), notified the holder of a capital markets services licence or financial adviser in writing as to
- 15 whether the product belongs to such class of specified products as the Authority may prescribe.

(2) Where there is a change in the classification of a capital markets product after the determination made in subsection (1)(a), the issuer concerned shall –

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- (a) where the product is listed for quotation or quoted on an approved exchange, notify the approved exchange in writing of the new classification of the product; and
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- (b) where an offer of the product is made through a holder of a capital markets services licence or through a financial adviser as defined in section 2 (1) of the Financial Advisers Act (Cap. 110), notify the holder of a capital markets services licence or financial adviser in writing of the new classification of the product,
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within such period of time as prescribed by the Authority.

(3) Any person who contravenes subsection (1) or (2) shall

35 be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day

or part thereof during which the offence continues after conviction.

**Use of terms “capital protected” or “principal protected”**

5       **309C.** – (1) No person shall, when describing or referring to any capital markets product which is, will be or has been the subject of an offer or intended offer, use the terms “capital protected” or “principal protected” or any of their derivatives in any language in the name or within the prospectus related to the capital markets product.

10       (2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part thereof during which the offence continues after conviction.”.

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**Amendment of section 324**

**50.** Section 324(1) of the principal Act is amended by deleting, immediately after the words “may constitute” in paragraph (a), the words “an offence” and substituting the words “a contravention”.

20       **Amendment of section 336**

**51.** Section 336 of the principal Act is amended by inserting, immediately after subsection (2), the following subsection:

25       “(3) The Authority may, in its discretion, compound any offence under a provision of this Act (including an offence under a provision that has been repealed) –

      (a) which was compoundable under this section at the time the offence was committed; but

      (b) which has ceased to be so compoundable,

30       by collecting from a person reasonably suspected of having committed the offence a sum of money not exceeding the maximum fine prescribed for that offence at the time it was committed.”.

**Amendment of Fourth Schedule**



**52.** The Fourth Schedule to the principal Act is amended by inserting, immediately after item 8, the following items:

“8A. Section 99B(2)

8B. Section 99I(1)”.

**5 Transitional and savings provisions**

**53.** The Authority may, by regulations, prescribe such transitional and savings provisions as it may consider necessary or expedient within 2 years of the date of commencement of this Act.