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The following Act was passed by Parliament on 15th November 2012 and assented to by the President on 5th December 2012:—

REPUBLIC OF SINGAPORE

No. 35 of 2012.

I assent.

(LS)

TONY TAN KENG YAM,
President.
5th December 2012.

An Act to amend the Financial Advisers Act (Chapter 110 of the 2007 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

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

Amendment of section 2

2. Section 2(1) of the Financial Advisers Act (referred to in this Act as the principal Act) is amended —

- (a) by deleting the words “section 130A” in the definition of “advocate and solicitor” and substituting the words “section 2(1)”; and
- (b) by deleting the definition of “principal” and substituting the following definition:

““principal”, in relation to a representative, means a person whom the representative is in the direct employment of, is acting for or is acting by arrangement with, and on behalf of whom the representative provides or will provide any financial advisory service;”.

Amendment of section 19

3. Section 19(2) of the principal Act is amended —

- (a) by deleting the word “given” in paragraph (b) and substituting the word “issued”;
- (b) by deleting paragraph (c) and substituting the following paragraph:

“(c) it appears to the Authority that the licensed financial adviser has failed to satisfy any of its obligations under or arising from —

- (i) this Act; or
 - (ii) any written direction issued by the Authority under this Act;”;
- (c) by inserting, immediately after paragraph (g), the following paragraph:

“(ga) the Authority has reason to believe that the licensed financial adviser has not acted in the best interests of its clients;”.

Amendment of section 23F

4. Section 23F of the principal Act is amended —

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

“(1A) Subsection (1) shall not apply to a principal who desires to appoint, as an appointed representative in respect of any type of financial advisory service, an individual who is a provisional representative in respect of that type of financial advisory service, if —

(a) that individual has satisfied the examination requirements specified for that type of financial advisory service; and

(b) the principal has informed the Authority of that fact in the prescribed form and manner under section 23D(5).”; and

(b) by deleting the words “or (5)” in subsection (6).

Amendment of section 23J

5. Section 23J(1) of the principal Act is amended —

(a) by deleting the words “of licence,” in paragraph (h)(i) and substituting the words “for him to be an appointed or provisional representative”;

(b) by deleting the word “or” at the end of paragraph (h)(ii);

(c) by deleting sub-paragraph (iii) of paragraph (h) and substituting the following sub-paragraphs:

“(iii) the Authority has reason to believe that he has not performed, or will not perform, the type of financial advisory service for which he is appointed efficiently, honestly or fairly; or

- (iv) the Authority has reason to believe that he has not acted in the best interests of the clients of his principal;” and
- (d) by inserting, immediately after paragraph (o), the following paragraph:
 - “(oa) it appears to the Authority that he has failed to satisfy any of his obligations under or arising from —
 - (i) this Act; or
 - (ii) any written direction issued by the Authority under this Act;”.

Amendment of section 25

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

“(5A) Where, on or after the date of commencement of section 6 of the Financial Advisers (Amendment) Act 2012 —

- (a) a licensed financial adviser, in making a recommendation to a person, contravenes subsection (1);
- (b) that person does, or refrains from doing, a particular act as a result of that contravention;
- (c) it is reasonable, having regard to that contravention and all other relevant circumstances, for that person to do, or refrain from doing, as the case may be, that act as a result of that contravention; and
- (d) that person suffers any loss or damage as a result of doing, or refraining from doing, as the case may be, that act,

then, without prejudice to any other remedy available to that person, the licensed financial adviser is liable to pay damages to that person in respect of that loss or damage.”.

Amendment of section 26

7. Section 26 of the principal Act is amended —

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

“(1) A licensed financial adviser shall not make a false or misleading statement —

- (a) as to any amount that would be payable in respect of a proposed contract in respect of any investment product;
- (b) as to the effect of any provision of a contract or a proposed contract in respect of any investment product; or
- (c) in connection with the provision of any financial advisory service,

if, when he makes the statement —

- (i) he does not care whether the statement is true or false; or
- (ii) he knows or ought reasonably to have known that the statement is false or misleading.

(1A) A licensed financial adviser shall not, in connection with the provision of any financial advisory service —

- (a) employ any device, scheme or artifice to defraud; or
- (b) engage in any act, practice or course of business which operates as a fraud or deception, or is likely to operate as a fraud or deception, upon any person.

(1B) Where, on or after the date of commencement of section 7(a) of the Financial Advisers (Amendment) Act 2012 —