

Futures Trading (Amendment) Bill

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Bill No: 39/1999

Read the first time: 23rd November 1999

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Expenditure of Public Money

Futures Trading (Amendment) Bill

Bill No. 39/1999

Read the first time on 23rd November 1999.

An Act to amend the Futures Trading Act (Chapter 116 of the 1996 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.—(1) This Act may be cited as the Futures Trading (Amendment) Act 1999 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

(2) The Minister may appoint different dates for the coming into operation of the different provisions of this Act.

Amendment of section 2

2. Section 2 of the Futures Trading Act (referred to in this Act as the principal Act) is amended —

- (a) by inserting, immediately after the word “means” in the definition of “member”, the words “, except for the purposes of Part VII,”; and
- (b) by renumbering that section as subsection (1) of that section, and by inserting immediately thereafter the following subsection:

“(2) Where the name of the body corporate known in this Act as the Singapore International Monetary Exchange Limited is changed pursuant to the Companies Act (Cap. 50), the change of name shall not affect the identity of that body corporate or the application of the relevant provisions of this Act or any other written law to that body corporate.”.

New section 21A

3. The principal Act is amended by inserting, immediately after section 21, the following section:

“Authority may issue written notices

21A.—(1) The Authority may, where it appears to the Authority to be necessary or expedient in the public interest or in the interest of the futures industry to do so, by notice in writing direct any holder or class of holders of a licence granted under this Part to comply with such requirements as the Authority may specify in the notice.

(2) For the avoidance of doubt, a notice issued under subsection (1) shall be deemed not to be subsidiary legislation.

(3) Without prejudice to the generality of subsection (1), any requirement specified in a notice issued under that subsection may relate to —

- (a) the standards to be maintained by the person concerned in the conduct of his business; and
- (b) the type and frequency of financial returns and other information to be submitted to the Authority.

(4) A holder of a licence granted under this Part who contravenes or fails to comply with any of the requirements specified in a notice issued to him under subsection (1) 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 of \$5,000 for every day or part thereof during which the offence continues after conviction.”.

Amendment of section 46

4. Section 46 of the principal Act is amended —

- (a) by inserting, immediately after the words “a Futures Exchange” in subsections (1), (2) and (3), the words “or a clearing house”;
- (b) by inserting, immediately after the words “the Exchange” wherever they appear in subsections (1), (2) and (3), the words “or the clearing house”;
- (c) by inserting, immediately after the words “a Futures Exchange” in subsection (4), the words “, a clearing house”; and
- (d) by inserting, immediately after the words “Futures Exchanges” in the marginal note, the words “or clearing houses”.

Amendment of section 49

5. Section 49 of the principal Act is amended by inserting, immediately after subsection (1), the following subsection:

“(1A) For the avoidance of doubt, a direction issued under subsection (1) shall be deemed not to be subsidiary legislation.”.

Repeal and re-enactment of section 49A and new section 49AA

6. Section 49A of the principal Act is repealed and the following sections substituted therefor:

“Interpretation of this Part

49A. In this Part, “member”, in relation to a Futures Exchange, means a person who —

- (a) holds membership of any class or description of a Futures Exchange whether or not he holds any share in the share capital of the Exchange; and
- (b) is licensed by the Authority to carry on the business of a futures broker.

Establishment of fidelity fund

49AA.—(1) A Futures Exchange shall establish and keep a fidelity fund (referred to in this Part as a fidelity fund or fund) which shall be administered by the Exchange.

(2) The assets of the fidelity fund of a Futures Exchange shall be the property of the Exchange but shall be kept separate from all other property of the Exchange and shall be held in trust for the purposes set out in this Part.”.

Repeal and re-enactment of section 49F

7. Section 49F of the principal Act is repealed and the following section substituted therefor:

“Fidelity fund to consist of amount of \$20 million, etc.

49F. The fidelity fund of a Futures Exchange shall consist of an amount of not less than —

- (a) \$20 million; or
- (b) such other amount as the Minister may, by order published in the

Gazette, specify in substitution of the amount specified under paragraph (a),

to be paid to the credit of the fund on the establishment of the Exchange under this Act or any time after its establishment as determined by the Minister.”.

Amendment of section 49G

8. Section 49G of the principal Act is amended —

- (a) by deleting the words “the sum of \$5 million or such other sum as the Minister may, by order, prescribe” in the 1st, 2nd and 3rd lines and substituting the words “the minimum amount referred to in section 49F”; and
- (b) by deleting the words “\$5 million” in the marginal note and substituting the words “minimum amount”.

Amendment of section 49I

9. Section 49I of the principal Act is amended by deleting subsection (2) and substituting the following subsections:

“(2) Subject to this Part, the fidelity fund shall be applied for the purpose of paying to the Official Assignee or a trustee in bankruptcy within the meaning of the Bankruptcy Act (Cap. 20) an amount not greater than the amount that the Official Assignee or the trustee in bankruptcy, as the case may be, certifies is required in order to make up or reduce the total deficiency arising because the available assets of a bankrupt who is a member of a Futures Exchange are insufficient to satisfy any debts arising from dealings in futures contracts that have been proved in the bankruptcy by creditors of the bankrupt member.

(2A) Subsection (2) shall apply in the case of a member of a Futures Exchange who has made a voluntary arrangement with his creditors under Part V of the Bankruptcy Act in like manner as that subsection applies in the case of a member who has become bankrupt.

(2B) For the purposes of subsection (2A) —

- (a) a reference to a trustee in bankruptcy in subsection (2) shall be deemed to be a reference to a nominee within the meaning of Part V of the Bankruptcy Act;
- (b) a reference to debts proved in bankruptcy in subsection (2) shall be deemed to be a reference to debts provable in relation to a voluntary