

Financial Advisers (Amendment) Regulations 2010

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No. S 716

**FINANCIAL ADVISERS ACT
(CHAPTER 110)**

FINANCIAL ADVISERS (AMENDMENT) REGULATIONS 2010

In exercise of the powers conferred by sections 8, 14, 16, 18, 19, 23, 23B, 23C, 23D, 23F, 23H, 23J, 36(7), 56, 57, 63, 89, 100 and 104 of the Financial Advisers Act, the Monetary Authority of Singapore hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Financial Advisers (Amendment) Regulations 2010 and shall come into operation on 26th November 2010.

Amendment of regulation 4

2. Regulation 4(1) of the Financial Advisers Regulations (Rg 2) (referred to in these Regulations as the principal Regulations) is amended by deleting the words “(under “Legislation and Notices”, “Financial Advisers”)” and substituting the words “(under “Regulations and Licensing”)”.

New regulations 4A and 4B

3. The principal Regulations are amended by inserting, immediately after regulation 4, the following regulations:

“Lodgment of documents and undertaking of responsibilities for representative

4A.—(1) A notice of intent under section 23F(1)(a) of the Act by a principal to appoint an individual as an appointed representative in respect of a type of financial advisory service and a certificate under section 23F(1)(b) of the Act by the principal as to the fitness and propriety of the individual to be so appointed shall be in Form 3A.

(2) A notice of intent under section 23F(1)(a) of the Act by a principal to appoint an individual as a provisional representative in respect of a type of financial advisory service and a certificate under section 23F(1)(b) of the Act by the principal as to the fitness and propriety of the individual to be so appointed shall be in Form 3B.

(3) A principal who lodges with the Authority the certificate under section 23F(1)(b) of the Act shall retain copies of all information and documents which it relied on in giving the certificate for a period of 5 years from the date of lodgment.

(4) For the purposes of section 23F(1)(c) of the Act, a principal shall undertake all of the following responsibilities in relation to its representative:

- (a) to put in place measures to properly supervise the activities and conduct of the representative, including measures to ensure that all obligations assumed and liabilities incurred by him are properly fulfilled, whether actual or contingent and howsoever arising, in relation to the provision of any financial advisory service;
- (b) to put in place measures, including proper training, to ensure that the representative understands and complies with all Singapore laws that

are relevant to the financial advisory service provided by him;

- (c) to ensure that the representative is accompanied at all times by any of the persons referred to in paragraph (5) when meeting any client or member of the public in the course of providing any financial advisory service;
- (d) to ensure that the representative sends concurrently to any of the persons referred to in paragraph (5) all electronic mail that he sends to any client or member of the public in the course of providing any financial advisory service;
- (e) to ensure that the representative does not communicate by telephone with any client or member of the public when providing any financial advisory service, other than by telephone conference in the presence of any of the persons referred to in paragraph (5).

(5) The persons referred to in paragraph (4)(c), (d) and (e) are —

- (a) an appointed representative of the principal;
- (b) a director of the principal who is approved under section 56 of the Act;
- (c) an officer of the principal whose primary function is to ensure that the provision of the financial advisory service in question complies with the laws and requirements of the Authority applicable to the financial advisory service in question;
- (d) an officer of the principal appointed by the principal to supervise the representative in providing the financial advisory service in question.

(6) In paragraph (4)(c), (d) and (e), “client or member of the public” excludes one who is an accredited investor, an expert investor or an institutional investor.

Provisional representative

4B.—(1) The period which the Authority may specify in the public register of representatives under section 23D(2) of the Act as the period which any named individual can be a provisional representative in respect of any type of financial advisory service shall not exceed 3 months from the date his name is entered in the register as a provisional representative.

(2) For the purposes of section 23D(5) of the Act, where a provisional representative in respect of a type of financial advisory service has satisfied the

examination requirements specified for that type of financial advisory service, his principal shall inform the Authority of that fact by serving on the Authority —

- (a) a duly completed Form 3D; and
- (b) before the expiry of the period specified against his name in the public register of representatives under section 23D(2) of the Act.

(3) For the purposes of section 23J(1)(s)(i) and (ii) of the Act, the Authority may refuse to enter the name and other particulars of an individual in the public register of representatives as a provisional representative in respect of a type of financial advisory service if —

- (a) he is not or was not previously licensed, authorised or otherwise regulated as a representative in relation to a comparable type of financial advisory service in a foreign jurisdiction for a continuous period of at least 12 months; or
- (b) the period between the date of his ceasing to be so licensed, authorised or regulated in a foreign jurisdiction and the date of his proposed appointment as a provisional representative exceeds 12 months.”.

Deletion and substitution of regulations 6 and 7

4. Regulations 6 and 7 of the principal Regulations are deleted and the following regulations substituted therefor:

“Fees

6.—(1) Subject to this regulation, the fees specified in the Second Schedule are payable to the Authority for the purposes, in the manner and at the times specified therein.

(2) Where —

- (a) the name of a person is entered in the public register of representatives as a provisional representative;
- (b) he pays the annual fee referred to in section 23H(2) of the Act for the retention of his name in the public register of representatives as a provisional representative for a period of time; and
- (c) his name is subsequently entered in the register as an appointed representative at any time during that period or on the business day immediately following the expiry of that period,

then the person is treated as having paid the annual fee for the continuing retention of his name in the register as an appointed representative, in respect of the financial advisory service provided