

**Securities and Futures (Licensing and Conduct of Business) (Amendment)
Regulations 2010**

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No. S 709

SECURITIES AND FUTURES ACT

(CHAPTER 289)

SECURITIES AND FUTURES (LICENSING AND CONDUCT OF BUSINESS)
(AMENDMENT) REGULATIONS 2010

In exercise of the powers conferred by sections 2(1), 84, 85, 90, 91, 93 to 97, 99, 99B, 99C, 99D, 99E, 99F, 99H, 99I, 99K, 99L, 99M, 100, 102, 104, 123, 337 and 341 of the Securities and Futures Act, the Monetary Authority of Singapore hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Securities and Futures (Licensing and Conduct of Business) (Amendment) Regulations 2010 and shall come into operation on 26th November 2010.

Amendment of heading to Part II

2. Part II of the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg 10) (referred to in these Regulations as the principal Regulations) is amended by inserting, immediately after the word “LICENSING” in the Part heading, the words “, REPRESENTATIVE NOTIFICATION”.

Amendment of regulation 3

3. Regulation 3(1) of the principal Regulations is amended by deleting the words “(under “Legislation and Notices”, “Securities and Futures”)” and substituting the words “(under “Regulations and Licensing”)”.

Deletion and substitution of regulation 3A and new regulations 3B, 3C and 3D

4. Regulation 3A of the principal Regulations is deleted and the following regulations substituted therefor:

“Lodgment of documents and undertaking of responsibilities for representative

3A.—(1) A notice of intent under section 99H(1)(a) of the Act by a principal to appoint an individual as an appointed representative in respect of a type of regulated activity and a certificate under section 99H(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 99H(1)(a) of the Act by a principal to appoint an individual as a provisional representative in respect of a type of

regulated activity and a certificate under section 99H(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 notice of intent under section 99H(1)(a) of the Act by a principal to appoint an individual as a temporary representative in respect of a type of regulated activity and a certificate under section 99H(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 3C.

(4) A principal who lodges with the Authority the certificate under section 99H(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.

(5) For the purposes of section 99H(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 carrying out any regulated activity;
- (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 regulated activity carried out by him;
- (c) to ensure that the representative is accompanied at all times by any of the persons referred to in paragraph (6) when meeting any client or member of the public in the course of carrying on business in any regulated activity;
- (d) to ensure that the representative sends concurrently to any of the persons referred to in paragraph (6) all electronic mail that he sends to any client or member of the public in the course of carrying on business in any regulated activity;
- (e) to ensure that the representative does not communicate by telephone with any client or member of the public in the course of carrying on business in any regulated activity, other than by telephone conference in the presence of any of the persons referred to in paragraph (6).

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

- (a) an appointed representative of the principal;
- (b) a director of the principal approved under section 96 of the Act;
- (c) an officer of the principal whose primary function is to ensure that the carrying on of business in the regulated activity in question complies with the laws and requirements of the Authority applicable to the regulated activity in question;
- (d) an officer of the principal appointed by the principal to supervise the representative in carrying on of business in the regulated activity in question.

(7) In paragraph (5)(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

3B.—(1) The period which the Authority may specify in the public register of representatives under section 99E(2) of the Act as the period which any named individual can be a provisional representative in respect of any type of regulated activity shall not exceed 3 months from the date his name is entered in the register as a provisional representative.

(2) For the purpose of section 99E(5) of the Act, where a provisional representative in respect of a type of regulated activity has satisfied the examination requirements specified for that type of regulated activity, his principal shall inform the Authority of that fact —

- (a) by serving on the Authority 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 99E(2) of the Act.

(3) For the purposes of section 99M(1)(t)(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 regulated activity, if —

- (a) he is not or was not previously licensed, authorised or otherwise regulated as a representative in relation to a comparable type of regulated activity 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,