

Securities and Futures (Clearing Facilities) Regulations 2005

Table of Contents

Enacting Formula

Part I PRELIMINARY

1 Citation and commencement

2 Definitions

3 Forms

4 Fees

5 Keeping of books and other information

Part II ESTABLISHMENT AND OPERATION OF CLEARING FACILITIES

6 Notification requirements

7 Obligation to submit periodic reports

8 Exemption from sections 49, 50 and 51 of Act

Part III REGULATION OF DESIGNATED CLEARING HOUSES

Division 1 — Obligations and matters relating to designated clearing houses

9 Obligation to notify Authority of certain matters

10 Obligation to seek Authority's approval

11 Obligation to submit periodic reports

12 Exceptions to obligation to maintain confidentiality

13 Business continuity plan

14 Transmission and storage of user information

15 Determination of position limits

16 Regulation of clearing fees of certain designated clearing houses

Division 2 — Customers' money and other assets

17 Application of this Division

18 Permissible investments of customers' money by designated clearing house

19 Daily computation of customers' money and assets

20 Verification of money and assets placed with designated clearing house

Division 3 — Rules of designated clearing houses

21 Content of rules of designated clearing houses

22 Amendment of business rules

Division 4 — Matters requiring approval of Authority

23 Application and criteria for approval to acquire substantial shareholding

24 Application for approval of chairman, chief executive officer, director and key persons

25 Criteria for approval of chairman, chief executive officer, director and key persons

Division 5 — Insolvency provisions

26 Application of Division 4 of Part III of Act

Part IV MISCELLANEOUS

27 Criteria to determine failure to discharge duties or functions by officers

28 Offences

Part V EXTRA-TERRITORIAL APPLICATION OF PART III OF ACT

29 Non-applicability of section 339 (2) of Act

Part VI REVOCATION

30 Revocation

FIRST SCHEDULE Fees

SECOND SCHEDULE Regulation of Clearing Fees

No. S 366

SECURITIES AND FUTURES ACT (CHAPTER 289)

SECURITIES AND FUTURES (CLEARING FACILITIES) REGULATIONS 2005

In exercise of the powers conferred by sections 49 (3) and (4), 50(1), 53, 60(1), 61(2), 64(1), 66, 68(2)(a), 69(1), 71(1)(a) and (2), 76(3) and (4), 81A(2), 81E, 81S, 339(3) and 341 of the Securities and Futures Act, the Monetary Authority of Singapore hereby makes the following Regulations:

PART I

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Securities and Futures (Clearing Facilities) Regulations 2005 and shall come into operation on 1st July 2005.

Definitions

2.—(1) In these Regulations, unless the context otherwise requires —

“annual report” means —

- (a) in relation to a corporation operating a clearing facility, the audited profit and loss accounts, audited balance-sheet and auditors’ report, by whatever name called, of the corporation in respect of the clearing facility; or
- (b) in relation to any other person operating a clearing facility, the profit and loss accounts and balance-sheet of the person in respect of the clearing facility;

“business day”, except for the purposes of regulation 19, has the same meaning as in section 4(1) of the Companies Act (Cap. 50);

“position”, in relation to a futures contract, means a futures contract which is outstanding and which has not been liquidated —

- (a) by an off-setting transaction;
- (b) by delivery of the commodity underlying the futures contract;
- (c) through settlement of the futures contract in accordance with the business rules or practices of a futures market, as the case may be; or
- (d) by substituting the futures contract for a cash commodity;

“settlement bank” means an entity approved by a designated clearing house to settle payment obligations arising from the transactions of the participants of the designated clearing house that are cleared or settled by the designated clearing house.

(2) Any word or expression used in these Regulations which is defined in section 48 of the Act shall, unless the context otherwise requires, have the same meaning as in that section.

Forms

3.—(1) The forms to be used for the purposes of Part III of the Act and these Regulations are those set out at the Authority's Internet website at <http://www.mas.gov.sg> (under "Legislation and Notices", "Securities and Futures"), and any reference in these Regulations to a numbered form shall be construed as a reference to the current version of the form bearing the corresponding number which is displayed at that website.

(2) Any document required to be lodged with the Authority under any provision of Part III of the Act or these Regulations shall be lodged in the relevant form and in the manner specified in the website referred to in paragraph (1), or in such other manner as the Authority may specify from time to time.

(3) All forms used for the purposes of Part III of the Act and these Regulations shall be completed in the English language and in accordance with such directions as may be specified in the form or by the Authority.

(4) The Authority may refuse to accept any form if —

- (a) it is not completed in accordance with this regulation; or
- (b) it is not accompanied by the relevant fee referred to in regulation 4.

(5) Where strict compliance with any form is not possible, the Authority may allow for necessary modifications to be made to that form, or for the requirements of that form to be complied with in such other manner as the Authority thinks fit.

Fees

4.—(1) The fees specified in the First Schedule shall be payable to the Authority for the purposes specified therein and, subject to section 69(2) of the Act, shall not be refundable.

(2) Payment of fees may be made through such electronic funds transfer system as the Authority may designate from time to time, whereby payment may be effected by directing the transfer of funds electronically from the bank account of the payer to a bank account designated by the Authority.

Keeping of books and other information

5. Every person who operates a clearing facility shall ensure that all relevant books and other information as may be required by the Authority for the purposes of the Act are kept for a minimum of 6 years .