

**Securities and Futures (Corporate Governance of Approved Exchanges,
Designated Clearing Houses and Approved Holding Companies) Regulations
2005**

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No. S 742

**SECURITIES AND FUTURES ACT
(CHAPTER 289)**

**SECURITIES AND FUTURES (CORPORATE GOVERNANCE OF APPROVED
EXCHANGES, DESIGNATED CLEARING HOUSES AND APPROVED HOLDING
COMPANIES) REGULATIONS 2005**

In exercise of the powers conferred by sections 45, 81S and 81ZK 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 (Corporate Governance of Approved Exchanges, Designated Clearing Houses and Approved

Holding Companies) Regulations 2005 and shall come into operation on 29th November 2005.

Definitions

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

“associated corporation”, in relation to a corporation, means —

- (a) any corporation in which the first-mentioned corporation or its subsidiary has, or the first-mentioned corporation and its subsidiary together have, an interest in shares entitling the beneficial owners thereof the right to cast, whether by proxy or in person, not less than 20% but not more than 50% of the total votes able to be cast at a general meeting of the second-mentioned corporation; or
- (b) any corporation, other than a subsidiary of the first-mentioned corporation or a corporation which is an associated corporation by virtue of paragraph (a), the policies of which the first-mentioned corporation or its subsidiary is, or the first-mentioned corporation together with its subsidiary are, able to control or influence materially;

“Audit Committee” means an Audit Committee referred to in regulation 14;

“Conflicts Committee” means a Conflicts Committee referred to in regulation 15;

“executive director” means a director who is concurrently an executive officer and “non-executive director” shall be construed accordingly;

“executive officer”, in relation to a corporation, means any person, by whatever name described, who —

- (a) is in the direct employment of, or acting for or by arrangement with, the corporation; and
- (b) is concerned with, or takes part in, the management of the corporation on a day-to-day basis;

“immediate family”, in relation to an individual, means the individual’s spouse, child, adopted child, step-child, brother, sister, parent or step-parent;

“independent director”, in relation to a regulated institution, means a director who is —

- (a) independent from any management and business relationship with the regulated institution; and

- (b) independent from any substantial shareholder of the regulated institution;

“member” —

- (a) in relation to an approved exchange or a designated clearing house, has the same meaning as in section 2 of the Act; and
- (b) in relation to an approved holding company, means a person who holds membership of any class or description in an approved exchange or a designated clearing house of which the approved holding company is the holding company;

“Nominating Committee” means a Nominating Committee referred to in regulation 9;

“regulated institution” means an approved exchange, a designated clearing house or an approved holding company;

“Remuneration Committee” means a Remuneration Committee referred to in regulation 13.

(2) In these Regulations, in relation to a company which may dispense with the holding of annual general meetings under section 175A of the Companies Act (Cap. 50) —

- (a) a reference to the doing of anything at an annual general meeting of the company shall be read as a reference to the doing of that thing by way of a resolution by written means in accordance with the Companies Act; and
- (b) a reference to the date of an annual general meeting of the company shall, unless the meeting is held, be read as a reference to the date of expiry of the period within which the meeting is required by law to be held.

PART II

GOVERNANCE OF REGULATED INSTITUTIONS

Independence from management and business relationships

3.—(1) In these Regulations, subject to regulation 5, a director shall be considered to be independent from management and business relationships with a regulated institution if —

- (a) the director has no management relationship with the regulated institution

or any of its subsidiaries; and

- (b) the director has no business relationship with the regulated institution or any of its subsidiaries, or with any officer of the regulated institution,

that could interfere, or be reasonably regarded as interfering, with the exercise of the director's independent business judgment with regard to the interest of the regulated institution.

(2) Without prejudice to paragraph (1)(a), a director shall not be considered to be independent from management relationships with a regulated institution or any of its subsidiaries if —

- (a) he is employed by the regulated institution or any of its subsidiaries, or has been so employed at any time during the current financial year or any of the preceding 3 financial years of the regulated institution or any of its subsidiaries;
- (b) any member of his immediate family —
 - (i) is employed by the regulated institution or any of its subsidiaries as an executive officer whose compensation is determined by the Remuneration Committee of the regulated institution or any of its subsidiaries; or
 - (ii) has been so employed at any time during the current financial year or any of the preceding 3 financial years of the regulated institution or any of its subsidiaries; or
- (c) he is accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the management of the regulated institution or any of its subsidiaries.

(3) Without prejudice to paragraph (1)(b) but subject to regulation 5, a director shall not be considered to be independent from business relationships with a regulated institution or any of its subsidiaries if —

- (a) he is a director, a substantial shareholder or an executive officer of any corporation, or a partner of a firm or a limited liability partnership or a sole proprietor, where such corporation, firm, limited liability partnership or sole proprietor carries on business for purposes of profit to which the regulated institution or any of its subsidiaries has made, or from which the regulated institution or any of its subsidiaries has received, substantial payments in the current or immediately preceding financial year;