

Financial Advisers (Transitional and Savings Provisions) Regulations

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FINANCIAL ADVISERS ACT
(CHAPTER 110, SECTION 105)

FINANCIAL ADVISERS (TRANSITIONAL AND SAVINGS PROVISIONS)
REGULATIONS

[8th August 2002]

Citation

1. These Regulations may be cited as the Financial Advisers (Transitional and Savings Provisions) Regulations.

Definitions

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

“FTA” means the repealed Futures Trading Act (Cap. 116, 1996 Ed.) in force immediately before 1st October 2002*;

* Date of commencement of sections 1–104 of the Financial Advisers Act. Section 105 (formerly section 106) came into operation on 6th August 2002.

“IIA” means the repealed Insurance Intermediaries Act (Cap. 142A, 2000 Ed.) in force immediately before 1st October 2002;

“SIA” means the repealed Securities Industry Act (Cap. 289, 1986 Ed.) in force immediately before 1st October 2002.

Persons registered under IIA

3. Subject to regulation 5, from 1st October 2002 —

(a) any person (not being a person referred to in paragraph (e)) who, immediately before that date, is registered as a direct life insurance broker under Part III of the IIA shall be deemed to hold a financial adviser’s licence (referred to in this regulation as a deemed licence) under the Act to provide financial advisory services in respect of life policies —

(i) until 31st December 2002; or

(ii) where an application for the renewal of the deemed licence is made by that person on or before 31st December 2002, until the date on which the deemed licence is renewed under the Act or the application is refused or withdrawn,

whichever is the later;

- (b) paragraph (a) shall not apply to a person referred to in paragraph (f) unless the Authority has notified that person in writing under paragraph (f) that paragraph (a) shall apply to him;
- (c) in relation to an application for the renewal of a deemed licence referred to in paragraph (a)(ii) —
 - (i) section 8(1) (other than paragraph (b)) and (2) of the Act shall apply; and
 - (ii) section 8(3) to (7) of the Act shall not apply;
- (d) where an application for the renewal of a deemed licence is made on any day between 1st December 2002 and 31st December 2002 (both dates inclusive), the Authority may impose a late renewal fee not exceeding \$100 for every day or part thereof from 1st December 2002 until the application is made, subject to a maximum of \$3,000;
- (e) any individual who, immediately before 1st October 2002, is a broking staff carrying on direct life insurance broking activities on behalf of a person referred to in paragraph (a) shall be deemed to hold a representative's licence (referred to in this regulation as a deemed representative's licence) under the Act to provide financial advisory services in respect of life policies —
 - (i) for a period of 3 months from 1st October 2002; or
 - (ii) where an application for a representative's licence under the Act is made by the individual within 3 months from that day, until the date on which the licence is granted to that individual or the application is refused or withdrawn,whichever is the later;
- (f) any person who, immediately before 1st October 2002, is registered as a direct life insurance broker and as one or more of the following under Part III of the IIA shall, unless the Authority has notified that person in writing by 1st October 2002 that paragraph (a) shall apply to him, be deemed to be an insurance broker registered under section 35X(2) of the Insurance Act (Cap. 142):
 - (i) a direct general insurance broker;
 - (ii) a general reinsurance broker;
 - (iii) a life reinsurance broker;

- (g) any condition to which the registration of a direct life insurance broker referred to in paragraph (a) is subject immediately before 1st October 2002 shall, to the extent that it is consistent with the provisions of the Act, be deemed to be a condition to which the deemed licence is subject;
- (h) the Authority may at any time —
 - (i) by notice in writing to any person referred to in paragraph (a), specify any additional condition or restriction to which the deemed licence is subject; or
 - (ii) by notice in writing to any person referred to in paragraph (e), specify any condition or restriction to which the deemed representative's licence is subject; and
- (i) any condition to which the registration of a person deemed to be an insurance broker under paragraph (f) is subject immediately before 1st October 2002 shall, to the extent that it is consistent with the provisions of the Insurance Act (Cap. 142), be deemed to be a condition of the corresponding registration of the person as an insurance broker.

Licensees under FTA and SIA

4. Subject to regulation 5, from 1st October 2002—

- (a) where the Authority has before that date so notified, in writing, any person who holds any of the following licences immediately before that date, that person shall be deemed to hold a financial adviser's licence or representative's licence (referred to in this regulation as a deemed licence) under the Act in respect of the activities authorised by the first-mentioned licence:
 - (i) a futures trading adviser's licence granted under Part III of the FTA;
 - (ii) a futures trading adviser's representative's licence granted under Part III of the FTA;
 - (iii) a dealer's licence granted under Part IV of the SIA;
 - (iv) a dealer's representative's licence granted under Part IV of the SIA;
 - (v) an investment adviser's licence granted under Part IV of the SIA;

- (vi) an investment representative's licence granted under Part IV of the SIA;
- (b) where a person holds a licence referred to in paragraph (a)(i), (iii) or (v) and carries on any direct life insurance broking activity immediately before 1st October 2002, that person shall be authorised to provide financial advisory services in respect of life policies under the corresponding deemed licence;
- (c) any condition or restriction to which the licence referred to in paragraph (a)(i), (ii), (iii), (iv), (v) or (vi) is subject immediately before 1st October 2002 shall, to the extent that it is consistent with the provisions of the Act, be deemed to be a condition or restriction to which the corresponding deemed licence is subject;
- (d) the Authority may, by notice in writing to any person referred to in paragraph (a), specify —
 - (i) the date of expiry of the deemed licence of the person;
 - (ii) notwithstanding paragraphs (a) and (b), the scope of the activities to which the deemed licence relates; and
 - (iii) any additional condition or restriction to which the deemed licence is subject;
- (e) upon the expiry of the deemed licence of any person referred to in paragraph (a) —
 - (i) in a case where the date of expiry of the deemed licence is in the same month as the month in which Part III of the FTA and Part IV of the SIA are repealed, the person shall be entitled to provide such financial advisory service as authorised by the deemed licence if an application for the renewal of the deemed licence is made not later than 2 months after its date of expiry;
 - (ii) in a case where the date of expiry of the deemed licence is in the month following the month in which Part III of the FTA and Part IV of the SIA are repealed, the person shall be entitled to provide such financial advisory service as authorised by the deemed licence if an application for the renewal of the deemed licence is made not later than one month after its date of expiry; or
 - (iii) in any other case, the person shall be entitled to provide such