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FINANCIAL ADVISERS ACT (CHAPTER 110)

FINANCIAL ADVISERS (AMENDMENT) REGULATIONS 2017

In exercise of the powers conferred by section 104 of the Financial Advisers Act, the Monetary Authority of Singapore makes the following Regulations:

Citation and commencement

1. These Regulations are the Financial Advisers (Amendment) Regulations 2017 and come into operation on 1 April 2017.

New regulation 33A

2. The Financial Advisers Regulations (Rg 2) (called in these Regulations the principal Regulations) are amended by inserting, immediately after regulation 33, the following regulation:

“Exemption from section 27 for dealers and related exemptions

33A.—(1) A dealer is exempt from section 27 of the Act (as it applies to the dealer by reason of section 23(4) of the Act) in relation to a recommendation of a listed excluded investment product provided to the dealer’s client by the dealer or a trading representative of the dealer, subject to the following conditions:

- (a) the dealer or trading representative, as the case may be, provides together with the recommendation —
 - (i) execution-related advice for the listed excluded investment product being recommended; and
 - (ii) the rationale for the advice;
- (b) the dealer has given to the client notice of the matters mentioned in paragraph (2), at the time mentioned in

paragraph (3), whether directly, or indirectly through the dealer's trading representative or any other agent.

(2) The matters to be in the notice under paragraph (1)(b) are all of the following:

- (a) that any execution-related advice provided by the dealer or the dealer's trading representative, as the case may be, does not take into account any of the client's investment objectives, financial situation or particular needs;
- (b) that it is the responsibility of the client to ensure that the listed excluded investment product to which the execution-related advice relates, and in which the client intends to invest, suits the client.

(3) The time of giving the notice under paragraph (1)(b) is before any execution-related advice is given by the dealer, or the dealer's trading representative, to the client for the first time on or after 1 April 2017.

(4) A dealer under paragraph (1) is exempt from section 23B(3)(a) of the Act in respect of any trading representative that provides a recommendation of a listed excluded investment product on behalf of the dealer to a client of the dealer under the conditions mentioned in that paragraph, and such trading representative is exempt from section 23B(1)(a) of the Act in providing such recommendation.

(5) A dealer must keep a register containing the details mentioned in paragraph (6) of every trading representative —

- (a) in respect of whom the exemption under paragraph (4) relates; and
- (b) who is not specified in the public register of representatives as an appointed representative or a provisional representative in respect of any type of financial advisory service.

(6) For the purpose of paragraph (5), the details of the trading representative are as follows:

- (a) name;
- (b) identity card number or passport number;
- (c) date on which the trading representative commences providing recommendations in accordance with paragraph (1)(a) on behalf of the dealer;
- (d) date on which the trading representative ceases providing recommendations in accordance with paragraph (1)(a) on behalf of the dealer.

(7) A dealer that fails to comply with paragraph (5) shall be guilty of an offence.

(8) In this regulation —

“client” includes a prospective client;

“dealer” means a person exempt from holding a financial adviser’s licence under section 23(1)(a), (b) or (d) of the Act and who carries on a business of providing execution-related advice;

“execution activities” means dealing in securities —

- (a) that have received approval in-principle for listing and quotation on any securities exchange or overseas securities exchange; or
- (b) are listed for quotation or quoted on any securities exchange or overseas securities exchange;

“execution-related advice” means advice that is provided by a dealer, or a trading representative of the dealer, to a client of the dealer where —

- (a) the advice concerns any listed excluded investment product;
- (b) the advice is provided to the client directly or through any publication or writing, whether in electronic, print or other form (other than through the issuance or promulgation of any

research analysis or research report, whether in electronic, print or other form);

(c) the provision of the advice is solely incidental to the carrying out of any execution activities by the dealer or the trading representative (as the case may be); and

(d) no discrete fee is charged by the dealer or trading representative (as the case may be) for the advice;

“listed excluded investment product” means a listed excluded investment product specified in the Fifth Schedule;

“overseas securities exchange” has the same meaning as in section 2(1) of the Securities and Futures Act (Cap. 289);

“trading representative”, in relation to a dealer, means an individual who is an appointed representative, a provisional representative or a temporary representative, as defined in section 2(1) of the Securities and Futures Act, of the dealer in respect of the execution activities.”.

Amendment of regulation 34A

3. Regulation 34A(2) of the principal Regulations is amended by deleting the definition of “execution activities” and substituting the following definition:

“ “execution activities” means either or both of the following activities:

(a) dealing in securities that have received approval in-principle for listing and quotation on, or are listed for quotation or quoted on, any securities exchange or overseas securities exchange;

(b) trading in futures contracts;”.