

Financial Advisers (Appeals) Regulations 2005

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THE SCHEDULE

No. S 791

FINANCIAL ADVISERS ACT (CHAPTER 110)

FINANCIAL ADVISERS (APPEALS) REGULATIONS 2005

In exercise of the powers conferred by section 94 of the Financial Advisers Act, the Senior Minister hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Financial Advisers (Appeals) Regulations 2005 and shall come into operation on 9th December 2005.

Definitions

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

“Appeal Advisory Committee” means an Appeal Advisory Committee constituted under section 91 of the Act;

“Appeal Advisory Panel” means the Appeal Advisory Panel appointed under section 92 of the Act;

“appellant” means any person who wishes to appeal under the Act to the Minister;

“decision” includes any action by or direction of the Authority appealed against;

“party” means the appellant or the Authority;

“secretary” means any person appointed as the secretary of the Appeal Advisory Panel under regulation 3(1).

Secretary of Appeal Advisory Panel

3.—(1) The Minister may appoint one or more officers or employees of the Authority, either by name or by office, to be the secretary of the Appeal Advisory Panel.

(2) The secretary shall provide administrative and secretarial support to the Appeal Advisory Panel or any Appeal Advisory Committee in the performance of its functions.

(3) The secretary may attend any meeting or hearing of any Appeal Advisory Committee.

Members of Appeal Advisory Committee

4.—(1) Every Appeal Advisory Committee shall consist of —

- (a) a chairman; and
- (b) 2 or more other members,

as the Minister may appoint from the members of the Appeal Advisory Panel.

(2) The Minister may appoint an alternate chairman from among the members and, in the absence of the chairman, the alternate chairman shall have all the powers conferred on the chairman by these Regulations.

(3) A member of an Appeal Advisory Committee shall declare to the Minister the nature and extent of all conflicts of interest or potential conflicts of interest, if any, with his duties or interests as a member of that Committee, including those arising from —

- (a) his holding of any office;
- (b) his interest in any contract;
- (c) his possession or ownership of any property; or
- (d) any direct or indirect relationship to the appellant.

(4) Where the Minister is satisfied that the chairman, the alternate chairman or any other member of an Appeal Advisory Committee is unable to carry out his duties properly and effectively because of any conflict of interest or potential conflict of interest referred to in paragraph (3), the Minister may appoint another chairman or alternate chairman or replace that other member, as the case may be.

Meetings and hearings of Appeal Advisory Committee

5.—(1) The quorum of any meeting or hearing of an Appeal Advisory Committee shall be 2 persons, of whom one shall be the chairman or alternate chairman, and no meeting or hearing shall be proceeded with unless such a quorum is present.

(2) An issue before an Appeal Advisory Committee shall be decided by a majority of votes, and in the case of an equality of votes, the chairman of the meeting or hearing

shall be entitled to a casting vote.

Procedure for appeals to Minister

6.—(1) An appellant shall appeal to the Minister by lodging with the secretary —

- (a) within the period stipulated in the relevant provision of the Act, a notice of appeal containing a brief description of the decision appealed against, in Form 1 in the Schedule; and
- (b) within 21 days from the date on which such notice of appeal is lodged, the following documents:
 - (i) a petition of appeal containing particulars of the decision appealed against, the issues arising in the appeal and the reasons for the appeal, in Form 2 in the Schedule; and
 - (ii) any supporting document referred to in the petition of appeal or relied on in support of the appeal.

(2) The Minister may, subject to such conditions as he may impose, accept any document referred to in sub-paragraph (a) or (b) of paragraph (1) which is lodged by the appellant after the expiration of the period specified in that sub-paragraph, if the Minister is satisfied that the appellant was unable to lodge that document within that period —

- (a) due to the appellant's absence from Singapore or illness; or
- (b) due to any other reason which is not caused by any unreasonable delay on the part of the appellant.

(3) The secretary shall, upon receipt of any document referred to in paragraph (1)(a) or (b), immediately forward that document to the Minister and a copy of that document to the Authority.

(4) When the Minister refers an appeal to an Appeal Advisory Committee, the secretary shall —

- (a) notify the Authority and the appellant that an appeal against the decision of the Authority has been referred by the Minister to the Committee; and
- (b) forward a copy of the notice of appeal and, as soon as it is available, a copy of each document referred to in paragraph (1)(b) to the Committee.

(5) Subject to regulation 12, the Authority shall, within 14 days from the date of receipt of the documents referred to in paragraph (1)(b) —

- (a) provide the Appeal Advisory Committee with its reasons for the decision

being appealed against, together with the supporting documents, if any, that it has relied on in making its decision; and

- (b) cause a copy of its reasons and the supporting documents, if any, to be served on the appellant.

Submission of additional information or documents

7.—(1) Any party (referred to in this regulation as the first-mentioned party) intending to rely on any additional information or documents it has not furnished to the Appeal Advisory Committee or the other party (referred to in this regulation as the second-mentioned party) under regulation 6 shall forward copies of such information or documents to the secretary and the second-mentioned party not later than 21 days before the date of the hearing before the Committee.

(2) The second-mentioned party shall be entitled to furnish additional information or documents, in response to the additional information or documents furnished by the first-mentioned party, not later than 18 days before the date of the hearing.

(3) No further information or documents shall be furnished by either party in any other circumstances except with the prior consent of the Appeal Advisory Committee.

Appeal Advisory Committee to conduct hearing

8.—(1) The Appeal Advisory Committee shall conduct a hearing within 28 days from the date that it is constituted and shall give the Authority and the appellant (or his advocate and solicitor) a reasonable opportunity to appear before and be heard by the Committee.

(2) All parties shall notify the secretary, not later than 18 days before the date of the hearing, of the witnesses that they propose to call upon to give evidence before the Appeal Advisory Committee.

(3) Where a party fails to notify the secretary of a witness in accordance with paragraph (2), that witness shall not be called by that party except with the prior consent of the Appeal Advisory Committee.

(4) The Appeal Advisory Committee may, in its discretion, summon —

- (a) all or any of the witnesses proposed by any party in accordance with paragraph (2); and
- (b) any other witness,

to give evidence before the Committee or to produce any document or material.