

Financial Advisers (Appeals) Regulations 2002

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THE SCHEDULE

FINANCIAL ADVISERS ACT 2001
(ACT 43 OF 2001)

FINANCIAL ADVISERS (APPEALS) REGULATIONS 2002

In exercise of the powers conferred by section 94 of the Financial Advisers Act 2001, the Deputy Prime Minister, Lee Hsien Loong, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Financial Advisers (Appeals) Regulations 2002 and shall come into operation on 1st October 2002.

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;

“secretary” means any person who has been appointed to be 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 to be the secretary of the Appeal Advisory Panel.

(2) The secretary may attend any meeting of any Appeal Advisory Committee.

Members and meetings 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 the members of the Appeal Advisory Committee and, in the absence of the chairman, the alternate chairman shall have all the powers conferred on the chairman by these Regulations.

(3) The quorum of any meeting of an Appeal Advisory Committee shall be 2 members, of whom one shall be the chairman or alternate chairman, and no business shall be transacted unless such a quorum is present.

(4) 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 shall be entitled to a casting vote.

(5) Any member of an Appeal Advisory Committee who —

- (a) holds any office;
- (b) has any interest in any contract;
- (c) possesses any property; or
- (d) is related (whether directly or indirectly) to the appellant,

whereby duties or interests, which are or are likely to be in conflict with his duties or interests as a member of that Committee, have been or might be created shall declare to the Minister that fact and the nature and extent of the conflict or potential conflict.

(6) Where the Minister is satisfied that the chairman, the alternate chairman or other member of an Appeal Advisory Committee is unable to carry out his duties properly and effectively because of the conflict or potential conflict referred to in paragraph (5), the Minister may appoint another chairman or alternate chairman or replace that other member, as the case may be.

Procedure for appeals to Minister

5.—(1) An appellant may 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 was lodged, 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.

(2) The Minister may, in his discretion and subject to such conditions as he may impose, accept a notice of appeal or petition of appeal lodged by the appellant after the

expiration of the period specified in paragraph (1)(a) or (b), if the Minister is satisfied that the appellant was unable to lodge the notice of appeal or petition of appeal, as the case may be, within that specified period due to the appellant's absence from Singapore, illness, or any other reason where the Minister is satisfied that there has not been any unreasonable delay on the part of the appellant.

(3) The secretary shall, upon receipt of any notice of appeal or petition of appeal, immediately forward such document to the Minister and a copy of such document to the Authority.

(4) Where the Minister refers an appeal to the 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, the petition of appeal to the Committee.

(5) Upon receipt of the notice referred to in paragraph (4)(a), the Authority may provide the Appeal Advisory Committee with its reasons for the decision being appealed against it.

(6) The Appeal Advisory Committee shall give the Authority (or its representative) and the appellant (or his advocate and solicitor) a reasonable opportunity to appear and be heard before the Committee.

Powers of Appeal Advisory Committee to hear witness and admit evidence

6.—(1) An Appeal Advisory Committee may, in its discretion, hear any witness and may admit or reject any evidence adduced, whether oral or documentary, and whether admissible or inadmissible under any written law for the time being in force relating to the admissibility of evidence.

(2) The secretary shall cause to be served on any person who is to be summoned to appear before an Appeal Advisory Committee to give evidence or to produce any document or material, not less than 7 days before the date on which the Committee will sit, a written notice of the time and place at which the Committee will sit.

(3) The secretary shall also cause the notice referred to in paragraph (2) to be served on the Authority and the appellant (or his advocate and solicitor).

(4) Service of the notice referred to in paragraph (2) shall be effected in such manner as the secretary may determine.

(5) In any proceedings under paragraph (1), the Authority (or its representative) and