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# GOVERNMENT GAZETTE

## BILLS SUPPLEMENT

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**Notification No. B 14** — The Financial Advisers (Amendment) Bill is hereby published for general information. It was introduced in Parliament on the 14th day of August 2003.

# **Financial Advisers (Amendment) Bill**

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**Bill No. 14/2003.**

*Read the first time on 14th August 2003.*

A BILL

*i n t i t u l e d*

An Act to amend the Financial Advisers Act (Chapter 110 of the 2002 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

### **Short title and commencement**

1. This Act may be cited as the Financial Advisers (Amendment) Act 2003 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

### **Amendment of section 2**

2. Section 2(1) of the Financial Advisers Act (referred to in this Act as the principal Act) is amended —

- (a) by inserting, immediately after the words “Insurance Act (Cap. 142)” in the definition of “life policy”, the words “, but does not include any contract of reinsurance”; and
- (b) by deleting the words “an individual” in the definition of “representative” and substituting the words “a person”.

### **Amendment of section 5**

3. Section 5 of the principal Act is amended —

- (a) by deleting the words “amend the First or Second Schedule” in subsection (1) and substituting the words “amend, add to or vary the First, Second or Third Schedule”; and
- (b) by deleting the words “First and Second” in the section heading.

### **Amendment of section 7**

4. Section 7 of the principal Act is amended by deleting subsection (1) and substituting the following subsection:

“(1) No person shall act as or hold himself out to be a representative unless —

- (a) he is an individual; and
- (b) he holds a representative’s licence or is a representative of an exempt financial adviser.”.

### **Amendment of section 8**

5. Section 8 of the principal Act is amended —

- (a) by deleting the words “or renewal” in subsection (3);

- (b) by inserting, immediately after subsection (3), the following subsection:

“(3A) An application for the renewal of a representative’s licence shall be supported by a person who is a licensed financial adviser.”; and

- (c) by inserting, immediately after the word “before” in subsection (6), the words “or during”.

### **Amendment of section 9**

#### **6. Section 9 of the principal Act is amended —**

- (a) by deleting the words “, or such other person having the powers and duties of a receiver, receiver and manager or judicial manager,” in subsection (1)(f) and substituting the words “or an equivalent person”; and

- (b) by deleting subsection (4) and substituting the following subsection:

“(4) The Authority may refuse an application for the grant or renewal of a financial adviser’s licence on any of the following grounds without giving the applicant an opportunity to be heard:

- (a) the applicant is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

- (b) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of the applicant;

- (c) a prohibition order under section 59 has been made by the Authority, and remains in force, against the applicant;

- (d) the applicant has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that it had acted fraudulently or dishonestly.”.

## Repeal and re-enactment of section 10

7. Section 10 of the principal Act is repealed and the following section substituted therefor:

### **“Failure to maintain minimum financial requirements or professional indemnity insurance policy**

**10.—(1)** A licensed financial adviser shall —

(a) maintain, at all times during the currency of its licence, such minimum financial requirements or such other requirements as may be prescribed under section 9(1)(b); and

(b) have in force, at all times during the currency of its licence, a professional indemnity insurance policy, the cover of which is consistent with such limit and deductible requirements as may be prescribed, or any other measure as may be approved by the Authority in lieu of a professional indemnity insurance policy, under section 9(1)(c).

(2) Where a licensed financial adviser contravenes subsection (1), the Authority may, without prejudice to any other remedy available to the Authority under this Act —

(a) permit the financial adviser to continue to act as such, subject to such conditions as the Authority may impose; or

(b) impose such requirements as may be specified in written directions, including requiring the financial adviser —

(i) to cease to act as a financial adviser other than for the purpose of giving effect to any agreement, transaction or arrangement that is permitted by or by virtue of its licence, and that has been entered into before the time of its failure to comply with the minimum financial requirements or such other requirements as may be prescribed under section 9(1)(b);

(ii) to cease to act as a financial adviser other than for the purpose of giving effect to any agreement, transaction or arrangement that is permitted by or by virtue of its licence, and that has been entered into before the time of its failure to have in force a professional indemnity

insurance policy, or such other measure as may be approved by the Authority in lieu of a professional indemnity insurance policy, under section 9(1)(c); or

(iii) to submit such statements or reports on a weekly basis or at such other intervals as the Authority may require until it meets the minimum financial requirements or such other requirements as may be prescribed under section 9(1)(b).

(3) Any licensed financial adviser which, without reasonable excuse, contravenes subsection (1) or any condition imposed by the Authority under subsection (2)(a) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000.”.

#### **Amendment of section 11**

8. Section 11 of the principal Act is amended by deleting subsection (4) and substituting the following subsection:

“(4) The Authority may refuse an application for the grant or renewal of a representative’s licence on any of the following grounds without giving the applicant an opportunity to be heard:

(a) the applicant is an undischarged bankrupt, whether in Singapore or elsewhere;

(b) a prohibition order under section 59 has been made by the Authority, and remains in force, against the applicant;

(c) the applicant has been convicted, whether in Singapore or elsewhere, of an offence —

(i) involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; and

(ii) punishable with imprisonment for a term of 3 months or more.”.

#### **Amendment of section 14**

9. Section 14(3) of the principal Act is amended by inserting, immediately after the word “paid”, the words “or payable”.

## **Amendment of section 16**

**10.** Section 16 of the principal Act is amended —

(a) by deleting subsections (1) and (2) and substituting the following subsections:

5 “(1) A licensee may apply to the Authority, in such form and manner as may be prescribed, to vary his licence —

(a) by adding one or more types of financial advisory service authorised to be provided by his licence; or

10 (b) by adding one or more types of investment product in respect of which he provides any financial advisory service.

(1A) The Authority may require an applicant to furnish it with such information or documents as it considers necessary in relation to the application.

15 (2) An application under subsection (1) —

(a) shall be accompanied by a non-refundable application fee of such amount as may be prescribed, which shall be paid in the prescribed manner; and

20 (b) if made in respect of a representative’s licence, shall be supported by a person who is —

(i) a licensed financial adviser in respect of the type or types of financial advisory service or investment product (as the case may be) to be added to the representative’s licence; or

25 (ii) a licensed financial adviser which has applied under subsection (1) to add to its licence the type or types of financial advisory service or investment product (as the case may be) to be added to the representative’s licence.

30 (2A) An application under subsection (1), if made in respect of a representative’s licence, shall be deemed to be withdrawn with effect from the date on which the licensed financial adviser which supported the application —

- (a) withdraws its support in writing;
  - (b) withdraws its application to add to its licence the type or types of financial advisory service or investment product (as the case may be) to be added to the representative's licence; or
  - (c) has its application to add to its licence the type or types of financial advisory service or investment product (as the case may be) to be added to the representative's licence refused by the Authority.”;
- and
- (b) by inserting, immediately after subsection (3), the following subsection:
- “(4) The Authority shall not refuse an application under subsection (1) without giving the applicant an opportunity to be heard.”.

#### **Amendment of section 18**

**11.** Section 18(3) of the principal Act is amended by deleting the words “immediately thereafter return the licence to the Authority” and substituting the words “return the licence to the Authority within 14 days of the date of the cessation”.

#### **Amendment of section 19**

**12.** Section 19 of the principal Act is amended by deleting subsection (5) and substituting the following subsection:

- “(5) The Authority may revoke or suspend a licence under subsection (2) or (3), respectively, without giving the licensee an opportunity to be heard —
- (a) in the case of a licensed financial adviser, on any of the following grounds:
    - (i) the licensee is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
    - (ii) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or



elsewhere, in relation to or in respect of any property of the licensee;

(iii) a prohibition order under section 59 has been made by the Authority, and remains in force, against the licensee;

(iv) the licensee has been convicted, whether in Singapore or elsewhere, of an offence involving fraud or dishonesty or the conviction for which involved a finding that it had acted fraudulently or dishonestly; or

(b) in the case of a licensed representative, on any of the following grounds:

(i) the licensee is an undischarged bankrupt, whether in Singapore or elsewhere;

(ii) a prohibition order under section 59 has been made by the Authority, and remains in force, against the licensee;

(iii) the licensee has been convicted, whether in Singapore or elsewhere, of an offence —

(A) involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; and

(B) punishable with imprisonment for a term of 3 months or more.”.

### **Amendment of section 23**

**13.** Section 23 of the principal Act is amended —

(a) by inserting, immediately after subsection (5), the following subsection:

“(5A) For the avoidance of doubt, references in subsections (4) and (5) to specific sections in this Act that apply to exempt financial advisers or their representatives, respectively, do not include references to any regulations made under those sections unless the Authority prescribes that such regulations so apply.”; and

(b) by inserting, immediately after the words “subsection (1)(f) or (2)” in subsection (7), the words “or their representatives”.

### **Amendment of section 32**

**14.** Section 32 of the principal Act is amended by deleting subsection (1) and substituting the following subsection:

- “(1) Every licensed financial adviser which receives any money —
- 5       (a) from or on behalf of an insured or intending insured for or on account of an insurer in connection with a contract of insurance or a proposed contract of insurance; or
  - (b) from or on behalf of an insurer for or on account of an insured or intending insured,
- 10       shall, for the purposes of this section, establish and maintain a separate account with a bank licensed under the Banking Act (Cap. 19).”.

### **Amendment of section 36**

- 15.** Section 36 of the principal Act is amended —
- 15       (a) by deleting subsection (4); and
  - (b) by deleting the words “, duly signed in accordance with subsection (4), for 7 years” in subsection (5) and substituting the words “for 6 years”.

### **Amendment of section 38**

- 20       **16.** Section 38(2) of the principal Act is amended by inserting, immediately after the words “enter in the register” in paragraph (a), the words “, within 7 days after the date of the change,”.

### **Amendment of section 56**

- 17.** Section 56 of the principal Act is amended —
- 25       (a) by deleting subsection (1) and substituting the following subsections:
    - “ (1) No licensed financial adviser shall appoint a person as —
    - (a) its chief executive officer;
    - 30       (b) its director where, upon appointment, the person resides or is to reside in Singapore, whether or not he

is directly responsible for its business in Singapore or any part thereof; or

- (c) its director where, upon appointment, the person is directly responsible for its business in Singapore or any part thereof, whether he resides or is to reside in Singapore or elsewhere,

unless it has obtained the approval of the Authority.

(1A) Where a licensed financial adviser has obtained the approval of the Authority to appoint a person as its chief executive officer or director under subsection (1), the person may be re-appointed as chief executive officer or director, as the case may be, of the licensed financial adviser immediately upon the expiry of the earlier term without the approval of the Authority.”; and

- (b) by deleting subsection (4) and substituting the following subsection:

“(4) The Authority may refuse an application for approval under subsection (1) on any of the following grounds without giving the licensed financial adviser an opportunity to be heard:

- (a) the person is an undischarged bankrupt, whether in Singapore or elsewhere;
- (b) a prohibition order under section 59 has been made by the Authority, and remains in force, against the person;
- (c) the person has been convicted, whether in Singapore or elsewhere, of an offence —
  - (i) involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; and
  - (ii) punishable with imprisonment for a term of 3 months or more.”.

### **Amendment of section 57**

**18.** Section 57 of the principal Act is amended —

- (a) by deleting the word “or” at the end of subsection (1)(f);
- (b) by inserting, immediately after paragraph (f) of subsection (1),  
the following paragraph:

“(fa) has had a prohibition order under section 59 made by the Authority against him that remains in force; or”;  
and

- (c) by deleting subsection (4) and substituting the following subsection:

“(4) The Authority may direct a licensed financial adviser to remove an officer from its office or employment under subsection (1) on any of the following grounds without giving the licensed financial adviser an opportunity to be heard:

- (a) the officer is an undischarged bankrupt, whether in Singapore or elsewhere;
- (b) a prohibition order under section 59 has been made by the Authority, and remains in force, against the officer;
- (c) the officer has been convicted, whether in Singapore or elsewhere, of an offence —
  - (i) involving fraud or dishonesty or the conviction for which involved a finding that he had acted fraudulently or dishonestly; and
  - (ii) punishable with imprisonment for a term of 3 months or more.”.

### **Amendment of section 58**

**19.** Section 58 of the principal Act is amended —

- (a) by deleting subsection (1) and substituting with the following subsection:

“(1) The Authority may, if it thinks necessary or expedient in the public interest, issue written directions, either of a general or specific nature, to —

- (a) any licensee;
- (b) any person exempt under section 23 or 100;
- (c) any representative of a person exempt under section 23 or 100; or
- (d) any class of the persons referred to in paragraphs (a), (b) or (c),

to comply with such requirements as the Authority may specify in the written directions, or for any other purpose.”;

(b) by deleting the word “; or” at the end of subsection (2)(a)(i) and substituting the words “, including the duties to be undertaken when making recommendations to clients in respect of investment products;”; and

(c) by inserting, immediately after sub-paragraph (ii) of subsection (2)(a), the following sub-paragraphs:

“(iii) the qualifications, experience and training of representatives; or

(iv) the procedure for the conduct of disciplinary control of licensees, exempt financial advisers and their representatives;”.

## **Amendment of section 65**

**20.** Section 65 of the principal Act is amended —

(a) by deleting the word “The” in subsection (1) and substituting the words “Subject to subsection (1A), the”; and

(b) by inserting, immediately after subsection (1), the following subsection:

“(1A) The Authority may, by notification published in the *Gazette*, appoint one or more of its officers to exercise the power to grant an exemption to any person (not being an exemption granted to a class of persons) under a provision of this Act specified in the Third Schedule, or to revoke any such exemption.”.

### **Amendment of section 69**

**21.** Section 69 of the principal Act is amended —

(a) by deleting subsection (1) and substituting the following subsection:

“(1) Nothing in this Part shall —

(a) compel an advocate and solicitor to disclose or produce a privileged communication, or a document or other material containing a privileged communication, made by or to him in that capacity; or

(b) authorise the taking of any such document or other material which is in his possession.”; and

(b) by inserting, immediately after the words “refuses to” in subsection (2), the words “disclose the information or”.

### **Amendment of section 83**

**22.** Section 83(5) of the principal Act is amended —

(a) by deleting the words “or a person” in paragraph (a) of the definition of “officer” and substituting the words “and includes a person”; and

(b) by deleting the words “and members of the committee of the association and includes persons holding positions analogous to those of president, secretary or member of a committee” in paragraph (b) of the definition of “officer” and substituting the words “, or a member of the committee of the association or a person holding a position analogous to that of president, secretary or member of a committee, and includes a person purporting to act in any such capacity”.

### **Amendment of section 88**

23. Section 88(2) of the principal Act is amended by deleting “10(4)” in paragraph (a) and substituting “10(3)”.

### **Amendment of section 92**

- 5 24. Section 92(2) of the principal Act is amended by inserting, immediately after the words “2 years”, the words “and shall be eligible for re-appointment”.

### **Repeal and re-enactment of section 94**

- 10 25. Section 94 of the principal Act is repealed and the following section substituted therefor:

#### **“Regulations for purposes of this Part**

94.—(1) The Minister may make regulations for the purposes and provisions of this Part and for the due administration thereof.

- 15 (2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or with respect to —

- (a) the appointment of members to, and procedures of, the Appeal Advisory Panel and Appeal Advisory Committees;
- (b) the form and manner in which an appeal to the Minister under this Act shall be made;
- 20 (c) the fees to be paid in respect of any appeal made to the Minister under this Act, including the refund or remission, whether in whole or in part, of such fees;
- (d) the remuneration of the members of the Appeal Advisory Panel and Appeal Advisory Committees; and
- 25 (e) all matters and things which by this Part are required or permitted to be prescribed or which are necessary or expedient to be prescribed to give effect to any provision of this Part.”.

## **Amendment of section 97**

**26.** Section 97(2) of the principal Act is amended —

(a) by deleting the word “or” at the end of paragraph (a)(ii) and (iii) of the definition of “misconduct”;

5 (b) by inserting, immediately after sub-paragraph (ii) of paragraph (a) of the definition of “misconduct”, the following sub-paragraph:

“(iia) any written direction made by the Authority under this Act; or”;

10 (c) by deleting paragraph (b) of the definition of “misconduct” and substituting the following paragraphs:

“(b) the failure by an officer of a licensed financial adviser or an exempt financial adviser to discharge any duty or function of his office; or

15 (c) the commission of an offence under section 83 or 84(1);”;

(d) by inserting, immediately after the definition of “misconduct”, the following definitions:

“ “officer” —

20 (a) in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, and includes a person purporting to act in any such capacity; or

25 (b) in relation to an unincorporated association (other than a partnership), means the president, the secretary, or a member of the committee of the association or a person holding a position analogous to that of president, secretary or member of a committee, and includes a person purporting to act in any such capacity;

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“partner” includes a person purporting to act as a partner;”;  
and



- (e) by inserting, immediately after the word “officer” in the definition of “relevant person” in subsection (2), the words “or partner”.

### **Amendment of section 100**

5     **27.** Section 100 of the principal Act is amended —

- (a) by inserting, immediately after the words “this Act” in subsection (2), the words “or the requirements specified in any written direction”; and
- 10     (b) by deleting the words “if the Authority considers it necessary in the public interest” in subsection (3)(c) and substituting the words “by the Authority”.

### **New section 102A**

**28.** The principal Act is amended by inserting, immediately after section 102, the following section:

15     **“Translations of instruments**

**102A.**—(1) Where a person submits or furnishes to or lodges with the Authority any book, application, return, report, statement or other information or document under this Act which is not in the English language, the person shall, at the same time or at such other time as may be permitted by the Authority, submit or furnish to or lodge with the Authority, as the case may be, an accurate translation thereof in the English language.

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(2) Where a person is required to make available for inspection by the public, or any section thereof, any document, report, or other book under this Act which is not in the English language, the person shall, at the same time or at such other time as may be permitted by the Authority, make available for such inspection an accurate translation thereof in the English language.

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(3) Where a person is required to maintain or keep any book under this Act and the book or any part thereof is not maintained or kept in the English language, the person shall —

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(a) cause an accurate translation of that book or that part of the book in the English language to be made from time to time at intervals of not more than 7 days; and

(b) maintain or keep the translation with the book for so long as the book is required under this Act to be maintained or kept.

(4) Subsections (1), (2) and (3) are subject to any express provision to the contrary in this Act or any regulations made thereunder.

(5) Any person who contravenes subsection (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000.

(6) Where a person is charged with an offence under subsection (5), it shall be a defence for the person to prove that —

(a) he had taken all reasonable steps to ensure that the translation that was submitted or furnished to or lodged with the Authority, made available for inspection, or maintained or kept, as the case may be, was accurate in the circumstances; and

(b) he had believed on reasonable grounds that the translation was accurate.

(7) In subsections (1), (2) and (3), “Act” includes any written direction made by the Authority under this Act.”.

#### **Amendment of section 104**

**29.** Section 104 of the principal Act is amended —

(a) by deleting paragraph (c) of subsection (2);

(b) by deleting the words “, and the duties of a licensee, or an exempt financial adviser or any of its representatives, to such clients when making recommendations in respect of investment products” in subsection (2)(f);

(c) by inserting, immediately after the words “refund and remission” in subsection (2)(j), the words “, whether in whole or in part,”;

(d) by deleting paragraph (m) of subsection (2);

(e) by deleting the word “and” at the end of subsection (4)(a); and

(f) by deleting paragraph (b) of subsection (4) and substituting the following paragraphs:

“(b) may provide that a contravention of any specified provision thereof shall be an offence; and

5                   (c) may provide for penalties not exceeding a fine of \$50,000 or imprisonment for a term not exceeding 12 months or both for each offence and, in the case of a continuing offence, a further penalty not exceeding a fine of 10% of the maximum fine prescribed for that  
10                   offence for every day or part thereof during which the offence continues after conviction.”.

### **Amendment of First Schedule**

**30.** Paragraph 11 of the First Schedule to the principal Act is deleted and the following paragraph substituted therefor:

15                   “11. A foreign company (within the meaning of section 4(1) of the Companies Act (Cap. 50)) whose provision of any financial advisory service is effected under an arrangement between the foreign company (on the one hand) and its related corporation which is licensed under this Act or exempt under section 23 (other than subsections (1)(f) and (2)) (on the other hand), where  
20                   such arrangement is approved by the Authority.”.

### **Amendment of Second Schedule**

**31.** Paragraph 4 of the Second Schedule to the principal Act is amended by inserting, immediately after the words “life policies”, the words “, other than a contract of reinsurance”.

### **25   New Third Schedule**

**32.** The principal Act is amended by inserting, immediately after the Second Schedule, the following Schedule:

## “THIRD SCHEDULE

Section 65(1A)

### SPECIFIED PROVISIONS

1. Section 23(2) and (6)
- 5      2. Section 100(2).”.

### **Transitional and savings provisions**

**33.** The Authority may, by regulations, prescribe such transitional and savings provisions in relation to this Act as it may consider necessary or expedient.

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### EXPLANATORY STATEMENT

This Bill seeks to amend the Financial Advisers Act (Cap. 110) —

- (a) to make amendments arising from minor policy changes;
- (b) to fine-tune the Act to improve its overall clarity, consistency and operational efficiency; and
- (c) to ensure the consistency of certain requirements in the Act with those in the Securities and Futures Act (Cap. 289).

Clause 1 relates to the short title and commencement.

Clause 2 amends the definition of “life policy” in section 2(1) to exclude contracts of reinsurance from the scope of the definition. The clause also makes a consequential amendment to the definition of “representative”.

Clause 3 extends section 5 to apply to the new Third Schedule (inserted by clause 32) and to make clear that the Minister may amend, add to or vary the Schedules to the Act.

Clause 4 amends section 7(1) to prohibit persons who are not individuals from acting as or holding themselves out to be representatives of financial advisers.

Clause 5 amends section 8 —

- (a) to provide that an application for the renewal of a representative’s licence is to be supported by a person who is a licensed financial adviser; and
- (b) to allow a person who submits an application for the renewal of his licence during the late renewal period to continue providing the types of financial

advisory service authorised by his licence until the date on which the licence is renewed or the application for its renewal is refused, as the case may be.

Clause 6 amends section 9(4) to limit the grounds on which the Authority may refuse an application for the grant or renewal of a financial adviser's licence without giving the applicant an opportunity to be heard. The clause also makes a consequential amendment to section 9(1)(f).

Clause 7 repeals and re-enacts section 10 to modify the obligations of a licensed financial adviser with respect to the minimum financial requirements and professional indemnity insurance policy requirements.

Clause 8 amends section 11(4) to limit the grounds on which the Authority may refuse an application for the grant or renewal of a representative's licence without giving the applicant an opportunity to be heard.

Clause 9 amends section 14(3) to provide that the Authority may remit the whole or a part of any licence fee payable to it.

Clause 10 amends section 16 —

- (a) to extend the right of variation of licence to cases where licensees propose to provide financial advisory services in respect of additional investment products;
- (b) to empower the Authority to require an applicant for the variation of a licence to furnish the information or documents which the Authority considers necessary;
- (c) to require an application for the variation of a representative's licence to be supported by a licensed financial adviser as described in the clause;
- (d) to set out the circumstances under which an application for the variation of a representative's licence is deemed to be withdrawn; and
- (e) to provide a licensee who has applied to vary his licence an opportunity to be heard when the Authority refuses his application.

Clause 11 amends section 18(3) to extend the period within which licensees are required to return their licences, upon ceasing to act as a licensed financial adviser or licensed representative, to 14 days of the date of the cessation.

Clause 12 amends section 19(5) to limit the grounds on which the Authority may revoke or suspend a licence without giving the licensee an opportunity to be heard.

Clause 13 amends section 23 —

- (a) to clarify that regulations made under the sections of the Act specified in subsections (4) and (5) do not apply to exempt financial advisers or their representatives unless otherwise specified in the regulations; and
- (b) to empower the Authority to prescribe or specify in written directions the provisions of the Act that apply to representatives of the persons referred to in subsections (1)(f) and (2).

Clause 14 amends section 32(1) to provide that financial advisers are required to establish and maintain insurance broking premium accounts only if they handle clients' moneys.

Clause 15 amends section 36 —

- (a) to remove the requirement for licensees to sign circulars and other written communication sent by them; and
- (b) to change the retention period of the circulars and other written communication from 7 years to 6 years.

Clause 16 amends section 38(2) to clarify that a relevant person must enter, in the register of his interests in securities, particulars of any change in his interest in securities within 7 days after the date of the change.

Clause 17 amends section 56 —

- (a) to provide that the prior approval of the Authority is required for the appointment of a chief executive officer, a director who resides in Singapore or a director (whether or not he resides in Singapore) who is directly responsible for any part of the business, of a licensed financial adviser;
- (b) to clarify that the prior approval of the Authority is not required for the re-appointment of a chief executive officer or a director immediately upon the expiry of the earlier term of office which the Authority has approved; and
- (c) to limit the grounds on which the Authority may refuse an application by a licensed financial adviser for approval to appoint a person as its chief executive officer or director without giving the licensed financial adviser an opportunity to be heard.

Clause 18 amends section 57 —

- (a) to include, as a new ground on which the Authority may direct the removal of an officer of a licensed financial adviser, that a prohibition order is in force against the officer; and
- (b) to limit the grounds on which the Authority may direct such removal without giving the licensed financial adviser an opportunity to be heard.

Clause 19 amends section 58 —

- (a) to empower the Authority to issue written directions to representatives of exempt financial advisers; and
- (b) to empower the Authority to issue written directions, instead of regulations, in respect of the following matters:
  - (i) the duties to be undertaken by licensees, exempt financial advisers and their representatives when making recommendations to clients in respect of investment products;
  - (ii) the qualifications, experience and training of representatives; and

- (iii) the procedure for the conduct of disciplinary control of licensees, exempt financial advisers and their representatives.

Clause 20 amends section 65 to empower the Authority to appoint its officers to grant or revoke exemptions on a case-by-case basis under the provisions of the Act specified in the new Third Schedule (inserted by clause 32).

Clause 21 extends section 69 to provide that nothing in Part VI, relating to the supervision and investigation powers of the Authority, compels the disclosure by an advocate and solicitor of a privileged communication, or a document or other material containing a privileged communication, made by or to him in that capacity or authorise the taking of any such document or other material which is in his possession.

Clause 22 amends the definition of “officer” in section 83(5) for consistency with section 97 (amended by clause 26).

Clause 23 amends section 88(2)(a) by updating the offences to be excluded from the operation of section 88(1) by virtue of the Bill.

Clause 24 amends section 92(2) to clarify that a member of the Appeal Advisory Panel is eligible for re-appointment.

Clause 25 repeals and re-enacts section 94 to empower the Minister to make regulations on matters relating to appeals under the Act, including the form and manner in which an appeal is to be made, the fees to be paid, and the remuneration of the members of the Appeal Advisory Panel and Appeal Advisory Committees.

Clause 26 amends section 97(2) —

- (a) to expand the definition of “misconduct” to include the contravention of any written direction issued by the Authority under the Act and the commission of an offence under section 83 or 84(1); and
- (b) to introduce definitions for the terms “officer” and “partner” used in the section.

Clause 27 amends section 100 —

- (a) to empower the Authority to exempt a person, upon that person’s application, from requirements specified in written directions issued by the Authority; and
- (b) to enable the Authority to withdraw an exemption granted under section 100(2) at any time.

Clause 28 inserts a new section 102A to require the translation of documents to be submitted to the Authority, made available for inspection, maintained or kept under the Act, into the English language.

Clause 29 amends section 104 —

- (a) to omit the matters which have been re-enacted in section 58(2) (by clause 19);

- (b) to clarify that the Authority may refund or remit, whether in whole or in part, fees paid in respect of any matter or thing required for the purposes of the Act;
- (c) to clarify that the Authority's regulation-making power includes the power to provide that a contravention of any regulations made under the Act will be an offence; and
- (d) to enhance the penalties that may be prescribed for the contravention of any regulations made under the Act.

Clause 30 amends paragraph 11 of the First Schedule to modify the circumstances under which a foreign company becomes an excluded financial adviser.

Clause 31 amends paragraph 4 of the Second Schedule to clarify that the reference to any contract of insurance in respect of life policies excludes contracts of reinsurance.

Clause 32 inserts a new Third Schedule which specifies the provisions of the Act containing exemptions that an officer appointed by the Authority under section 65(1A) (inserted by clause 20) may grant or revoke on a case-by-case basis.

Clause 33 is a provision enabling transitional and savings provisions to be made by subsidiary legislation.

## EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.

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