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SECURITIES AND FUTURES ACT
(CHAPTER 289)

SECURITIES AND FUTURES
(FINANCIAL AND MARGIN REQUIREMENTS FOR
HOLDERS OF CAPITAL MARKETS SERVICES LICENCES)
(AMENDMENT NO. 2) REGULATIONS 2012

In exercise of the powers conferred by sections 86, 100 and 341 of the Securities and Futures Act, the Monetary Authority of Singapore hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) (Amendment No. 2) Regulations 2012 and shall come into operation on 7th August 2012.

Amendment of regulation 26

2. Regulation 26(1) of the Securities and Futures (Financial and Margin Requirements for Holders of Capital Markets Services Licences) Regulations (Rg 13) (referred to in these Regulations as the principal Regulations) is amended by deleting the words ““Regulations and Licensing”” and substituting the words ““Regulations and Financial Stability”, “Regulations, Guidance and Licensing”, “Securities, Futures and Fund Management””.

Amendment of First Schedule

3. The First Schedule to the principal Regulations is amended by inserting, immediately after the words “accredited investor” in item (5)(a) and (b) in the table, the words “or institutional investor”.

Amendment of Sixth Schedule

4. Paragraph 2 of the Sixth Schedule to the principal Regulations is amended —

- (a) by deleting the words “sub-paragraph (2)” in sub-paragraph (1)(a)(i) and substituting the words “sub-paragraph (6)”;
- (b) by deleting the word “or” at the end of sub-paragraph (1)(a)(ii);
- (c) by deleting sub-paragraph (b) of sub-paragraph (1) and substituting the following sub-paragraphs:

“(b) in relation to the holder of a licence to carry out fund management, who is not licensed to carry out any other regulated activity, means the operational risk requirement calculated in accordance with sub-paragraph (2); or

(c) in relation to any other holder, means the operational risk requirement calculated in accordance with sub-paragraph (6).”;

and

- (d) by deleting sub-paragraphs (2) and (3) and substituting the following sub-paragraphs:

“(2) For the purposes of sub-paragraph (1)(b), the holder shall calculate the operational risk requirement as the highest of —

- (a) 10% of the average annual adjusted gross income of the holder for the last 3 preceding financial years of the holder;
- (b) 5% of the average annual gross income of the holder for the last 3 preceding financial years of the holder; and
- (c) \$100,000.

(3) For the purposes of sub-paragraph (2)(a), “annual adjusted gross income” for a financial year of the holder means the annual gross income for the financial year less the sum of non-guaranteed staff bonuses, commission and interest expenses reported as expenses in the annual statements lodged by the holder in Form 6 for the same financial year, and is deemed to be zero if it is a negative amount.

(4) For the purposes of sub-paragraph (2)(b), the annual gross income for a financial year of the holder shall be deemed to be zero if it is a negative amount.

(5) For the purposes of sub-paragraphs (2) and (3), the annual gross income for a financial year of the holder is the total revenue of the holder as stated in the annual statement lodged by the holder in Form 6 for the financial year, adjusted by excluding the following:

- (a) any realised or unrealised profits or losses arising from the sale or revaluation of financial assets in that financial year that are classified as “held to maturity” or “available for sale”;

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- (b) any income or expense item not derived from the ordinary activities of the holder in that financial year and not expected to recur frequently or regularly; and
 - (c) any income derived from any insurance recoveries in that financial year.

(6) For the purposes of sub-paragraph (1)(a)(i) and (c), the holder shall calculate the operational risk requirement as 10% of the total revenue of the holder as stated in the statement in Form 6 lodged by the holder for the latest completed financial year, adjusted by deducting the following:

- (a) profit on the sale or termination of a business operation;
- (b) profit on disposal of a fixed asset; and
- (c) such other item as the Authority may specify in a guideline issued by the Authority.

(7) Where any statement referred to in sub-paragraph (3), (5) or (6) is not available, the holder shall consult with the Authority on the appropriate values to be used for the purpose of determining its operational risk requirement.”.

[G.N. Nos. S 372/2005; S 78/2006; S 507/2006; S 677/2006; S 445/2007; S 101/2008; S 375/2008; S 77/2009; S 714/2010; S 19/2012]

Made this 1st day of August 2012.

RAVI MENON
Managing Director,
Monetary Authority of Singapore.

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