

## PART XIII

### REPEAL, SAVINGS AND TRANSITIONAL PROVISIONS

#### Repeal of Securities Industry Act 1983 and Futures Industry Act 1993 and savings and transitional in respect thereof

381. (1) For the purpose of this Part—

“effective date” means the relevant date or dates, as the case may be, notified by the Minister under section 1;

“repealed Acts” means the Securities Industry Act 1983 and the Futures Industry Act 1993 so repealed under this Part.

(2) The Securities Industry Act 1983 and the Futures Industry Act 1993 are repealed with effect from the effective date.

(3) Notwithstanding subsection (2)—

(a) (i) all regulations, orders, directions, notifications, exemptions and other subsidiary legislation, howsoever called; and

(ii) all approvals, directions, decisions, notifications, exemptions and other executive acts, howsoever called,

made, given or done under or in accordance with, or by virtue of, the repealed Acts shall be deemed to have been made, given, or done under, or in accordance with, or by virtue of, the corresponding provisions of this Act, and shall continue to remain in full force and effect in relation to the persons to whom they applied until amended, repealed, rescinded, revoked or replaced under, in accordance with or by virtue of, the corresponding provisions of this Act;

(b) every direction, notice, guideline, circular, guidance note or practice note issued by the Commission or the Minister under the repealed Acts before the effective date and in force immediately before the effective date, shall be deemed to have been lawfully issued under this Act in relation to the particular provision of this Act corresponding to the matter dealt with in the direction, notice, guideline, circular, guidance note or practice note and shall remain in full force and effect until it is amended, rescinded or repealed under this Act;

(c) any application for an approval or consent, or for any other purpose whatsoever, or any appeal relating to such application, made by any person to the Minister or to the Commission under either of the repealed Acts before the effective date or dates, and pending immediately before the effective date or dates, shall, if there is a corresponding provision in this Act, be dealt with as if it was made under that provision and, if there is no such corresponding provision in this Act, such application or appeal shall lapse on the effective date or dates; and

- (d) all transactions or dealings lawfully executed or entered into, and all business lawfully done, under or in accordance with any of the repealed Acts by a person who was licensed under the respective repealed Acts and who is licensed or deemed to be licensed in respect of a corresponding business under this Act, with any customer or other person, shall be deemed to have been lawfully and validly executed, entered into, or done, under and in accordance with this Act, and accordingly, any right or liability under such transaction, dealing or business existing, immediately before the effective date, shall be deemed to continue to be lawful and valid under this Act.

### **Approved exchange holding companies, exchanges and approved clearing house deemed to have been approved**

**382.** (1) Without prejudice to the generality of section 381, the following entities that were approved or recognised under the repealed Acts immediately before the effective date shall each be deemed to have been approved under the corresponding provisions of this Act:

- (a) the exchange holding company and stock exchange;
  - (b) the exchange company and the approved clearing house for the futures market under subsection 6B(1) of the repealed Futures Industry Act 1993 that are deemed to be approved as a futures exchange and approved clearing house under the corresponding provision of this Act; and
  - (c) a recognised clearing house which was recognised under the repealed Securities Industry Act 1983 immediately before the effective date shall be deemed to be an approved clearing house under the corresponding provision of this Act.
- (2) Any condition or restriction imposed by the Minister or the Commission, as the case may be, on any of the entities referred to in subsection (1) as an exchange holding company, stock exchange, futures exchange, approved clearing house or recognised clearing house, as the case may be, and in force immediately before the effective date shall be deemed to be a condition or restriction to which its approval or recognition under this Act is subject.

### **Electronic facility deemed registered**

**383.** (1) The electronic broking system which was exempted under the Securities Industry (Declaration of Exempt Stock Market) Order 2005 [*P.U. (A) 496/2005*] in force immediately before the effective date shall be deemed to have been registered under subsection 34(1).

- (2) Any condition or restriction imposed under the Securities Industry (Declaration of Exempt Stock Market) Order 2005 and any other applicable guidelines in force immediately before the effective date shall be deemed to be a condition or restriction to its registration under subsection 34(1).

## Savings in respect of licences issued under the repealed Acts

- 384.** (1) Without prejudice to the generality of section 381 and subject to the provisions of this Act—
- (a) a person who holds any of the following licences immediately before the effective date shall, from that date, be deemed to hold a Capital Markets Services Licence or Capital Markets Services Representative's Licence, as the case may be, in respect of the regulated activity which that person was carrying on under the first-mentioned licence:
    - (i) a futures broker's licence granted under the repealed Futures Industry Act 1993;
    - (ii) a futures fund manager's licence granted under the repealed Futures Industry Act 1993;
    - (iii) a futures trading adviser's licence granted under the repealed Futures Industry Act 1993;
    - (iv) a dealer's licence granted under the repealed Securities Industry Act 1983;
    - (v) a fund manager's licence granted under the repealed Securities Industry Act 1983;
    - (vi) an investment adviser's licence granted under the repealed Securities Industry Act 1983;
    - (vii) a futures broker's representative's licence granted under the repealed Futures Industry Act 1993;
    - (viii) a futures fund manager's representative's licence granted under the repealed Futures Industry Act 1993;
    - (ix) a futures trading adviser's representative's licence granted under the repealed Futures Industry Act 1993;
    - (x) a dealer's representative's licence granted under the repealed Securities Industry Act 1983;
    - (xi) a fund manager's representative's licence granted under the repealed Securities Industry Act 1983; or
    - (xii) an investment representative's licence granted under the repealed Securities Industry Act 1983; and
  - (b) any condition or restriction to which any licence referred to in paragraph (1)(a) was subject immediately before the effective date, to the extent that it is consistent with the provisions of this Act, shall be deemed to be a

condition or restriction to which the corresponding licence referred to in paragraph (1)(a) is subject.

- (2) For the purposes of subsection (1), where a person holds an investment adviser's licence granted under the repealed Securities Industry Act 1983 immediately before the effective date and who is authorised to carry on the business of—
- (a) advising others concerning securities other than advising on corporate finance, the person shall be deemed to hold a Capital Markets Services Licence in respect of the regulated activity of investment advice;
  - (b) advising on corporate finance, the person shall be deemed to hold a Capital Markets Services Licence in respect of the regulated activity of advising on corporate finance; or
  - (c) analysing the financial circumstances of another person and provides a plan to meet that other person's financial needs and objectives, the person shall be deemed to hold a Capital Markets Services Licence in respect of the regulated activity of financial planning,

respectively under the corresponding provisions of this Act.

- (3) For the purposes of subsection (1), where a person holds an investment adviser's representative's licence granted under the repealed Securities Industry Act 1983 immediately before the effective date and who is authorised to carry on the business of—
- (a) advising others concerning securities other than advising on corporate finance, the person shall be deemed to hold a Capital Markets Services Representative's Licence in respect of the regulated activity of investment advice;
  - (b) advising on corporate finance, the person shall be deemed to hold a Capital Markets Services Representative's Licence in respect of the regulated activity of advising on corporate finance; or
  - (c) analysing the financial circumstances of another person and provides a plan to meet that other person's financial needs and objectives, the person shall be deemed to hold a Capital Markets Services Representative's Licence in respect of the regulated activity of financial planning,

respectively under the corresponding provisions of this Act.

- (4) For the purposes of subsection (1), where a person holds a futures fund manager's licence under the repealed Futures Industry Act 1993 immediately before the effective date, the person shall be deemed to hold a Capital Markets Services Licence for a regulated activity of fund management in respect of futures contracts.
- (5) For the purposes of subsection (1), where a person holds a futures fund manager's representative's licence under the repealed Futures Industry Act 1993 immediately

before the effective date, the person shall be deemed to hold a Capital Markets Services Representative's Licence for the regulated activity of fund management in respect of futures contracts.

- (6) The Commission may, by notice in writing to a person who holds any of the licences referred to in subsection (1) specify—
- (a) notwithstanding section 68, the date of expiry of the Capital Markets Services Licence or Capital Markets Services Representative's Licence which he is deemed to hold by virtue of subsection (1);
  - (b) the regulated activity or activities to which the Capital Markets Services Licence or Capital Markets Services Representative's Licence relates; and
  - (c) any additional condition or restriction to which the Capital Markets Services Licence or Capital Markets Services Representative's Licence is subject, provided where such conditions or restrictions proposed to be imposed are likely to prejudice the interests of the licensed person, the Commission shall give such licensed person an opportunity to be heard.
- (7) Where the Commission gives notice to a person of the date of expiry of a licence referred to in paragraph (6)(a), that licence shall expire on that date.
- (8) Subject to subsection (7)—
- (a) in the case of a person who holds one of the licences referred to in subsection (1) immediately before the effective date, the Capital Markets Services Licence or Capital Markets Services Representative's Licence which he is deemed to hold by virtue of subsection (1) shall expire on the date of the expiry of the first-mentioned licence; or
  - (b) in the case of a person who holds more than one of the licences referred to in subsection (1) immediately before the effective date the dates of expiry of which are different, the deemed licence shall expire on the last of those dates.

### **Pending applications for licences**

- 385.** Unless otherwise notified in writing by the Commission, an application for a licence under the repealed Acts that is pending immediately before the effective date shall—
- (a) be deemed to be an application for a licence which corresponds to the first-mentioned licence under section 58 or 59, as the case may be, and which is accompanied by the appropriate application fee under this Act; or
  - (b) where the applicant is deemed under this Part to hold a licence, be deemed to be an application to vary that licence by adding the regulated activity or activities to which the corresponding licence relates, and which is accompanied by the appropriate application fee under this Act.

## Transitional and savings in respect of corporate proposals

- 386.** (1) Without prejudice to the generality of section 381, all actions, rules, regulations, orders, directions, notifications, approvals, decisions and other executive acts howsoever called, made, given or done under, or in accordance with, or by virtue of section 2B and Part IV of the Securities Commission Act 1993 before the effective date shall, in so far as it is consistent with the provisions of this Act, be deemed to have been made, given or done under or in accordance with or by virtue of, the corresponding provisions of this Act, and shall continue to remain in force and have effect in relation to the persons, activities or transactions to whom they apply until amended, revoked or rescinded under, in accordance with, or by virtue of, the corresponding provisions this Act.
- (2) Nothing in this Act shall affect any person's liability to be prosecuted or punished for offences committed under the Securities Commission Act 1993 before the effective date or any proceedings brought or sentence imposed before the effective date in respect of such offence.
- (3) Nothing in this Act shall affect any right, privilege, obligation or liability acquired, accrued or incurred under the Securities Commission Act 1993 before the effective date and any legal proceedings, remedy or investigation in respect of such right, privilege, obligation or liability shall not be affected and any such legal proceedings, remedy or investigation may be instituted, continued or enforced as if this Act had not been enacted.
- (4) Nothing in this Act shall—
- (a) affect the validity of any securities or the operation of any trust deed or deed issued or executed before the effective date;
  - (b) apply in relation to an issuer, borrower, guarantor or trustee or any other person in respect of any securities that have been issued or offered for subscription or purchase or in respect of which an invitation to subscribe for or purchase securities has been made before the effective date; or
  - (c) require the appointment or replacement of any trustee or the execution of any trust deed in respect of any debenture issued before the effective date, where there was no such requirement before the effective date.
- (5) Where, upon the effective date, securities may be issued, offered for subscription or purchase or where an invitation to subscribe for or purchase securities has been made on the basis of any prospectus issued before the effective date, the issuer shall, unless the written approval of the Commission granting an exemption is obtained, issue such supplementary or replacement prospectus and take such other action to ensure that the issue, offer or invitation complies with the requirements of this Act.
- (6) The Commission may, by a direction in writing given to any issuer referred to in subsection (5) determine what action is to be taken by that issuer and how any difficulty arising in respect of the provisions introduced or amended by this Act may be overcome.

- (7) Nothing in this Act shall—
- (a) affect the validity or operation of any interest or deed, to which Division 5 of Part IV of the Securities Commission Act 1993 applies, issued or executed before the effective date; or
  - (b) apply in relation to the management company by or on whose behalf any interest to which Division 5 of Part IV of the Securities Commission Act 1993 applies and which have been issued before the effective date or in relation to the trustee for the holders of any such interest.

### **Transitional provisions in relation to certain registered persons**

- 387.** (1) The Securities Industry (Dealing in Securities) Declaration 1996 [*P.U. (B) 22/1996*] and the Securities Industry (Exempt Dealer) Order 1996 [*P.U. (A) 20/1996*] are revoked.
- (2) All persons to whom the Order referred to in subsection (1) shall be deemed to have been registered under paragraph 76(1)(a) from the effective date.
- (3) The registered persons to whom paragraph 76(6)(a) applies shall be given a period of one year to comply with the provisions referred to in paragraph 76(6)(c).

### **Revocation of subsidiary legislation**

- 388.** The subsidiary legislation as set out in Schedule 11 are revoked.

### **Modifications to construction of other written laws**

- 389.** Where in any written law, any reference is made to—
- (a) any of the repealed Acts, it shall be construed as a reference to this Act;
  - (b) any specific provision of any of the repealed Acts, it shall be construed as a reference to a provision of this Act which corresponds as nearly as may be to such specific provision; and
  - (c) a dealer or futures broker shall be construed as a reference to a holder of a Capital Markets Services Licence who carries on the business of dealing in securities or trading in futures contracts respectively.

### **Continuance of other rights, liabilities, etc., under the repealed Acts**

- 390.** (1) Nothing in the repealed Acts or this Act shall affect any person's liability to be prosecuted or punished for offences or breaches committed under the repealed Acts before the commencement of this Act or any proceeding brought, sentence imposed or action taken before that day in respect of such offence or breach.
- (2) Any right, privilege, obligation or liability acquired, accrued or incurred before the effective date or any legal proceedings, remedy or investigation in respect of

such right, privilege, obligation or liability shall not be affected by this Act and shall continue to remain in force as if this Act had not been enacted.

### **Prevention of anomalies**

**391.** Where any difficulty arises with respect to the application of any one or more of the provisions introduced or amended by this Act and the savings and transitional provisions, the Minister may, by order published in the *Gazette*, make such modifications in any one or more of those provisions as may appear to him to be necessary to give full effect to the provisions of this Act or to prevent anomalies.

### **Persons dealing in securities in relation to unit trust scheme**

- 392.** (1) A body that is approved by the Commission under subsection 2(1) of the repealed Securities Industry Act 1983 to regulate its members whose dealing in securities is in relation to the arranging or offering for the sale or purchase of any interest in a unit trust scheme shall, subject to such terms and conditions as may be specified by the Commission, be a body that is approved by the Commission under paragraph 76(1)(d) for the purposes of this Act for a period of two years from the date of coming into force of this Act.
- (2) A unit trust agent who is registered with the body referred to in subsection (1) shall for the purposes of paragraph 76(1)(d) be a registered person.
- (3) The Commission may exercise any power under this Act with respect to a licensed person against the body as well as the unit trust agents who are registered with the body referred to in subsection (1).
- (4) For the purposes of this section, “unit trust agent” means an individual who is registered with the body referred to in subsection (1).

### **Transitional provisions for unlicensed unit trust management companies**

- 393.** (1) Any management company who—
- (a) is registered with a body that is approved by the Commission;
- (b) is not a holder of a fund manager’s licence as provided for in section 15A of the repealed Securities Industry Act 1983 or a holder of a Capital Markets Services Licence who carries on the business of fund management; and
- (c) whose dealing in securities is in relation to the activities of arranging or offering for the sale or purchase of any interest in a unit trust scheme,
- is allowed to continue such activities without holding a Capital Markets Services Licence for a period of one year from the date of coming into force of this Act subject to such terms and conditions as may be specified by the Commission.
- (2) The Commission may exercise any power under this Act with respect to a licensed person against the management company referred to in subsection (1).

## **Transitional provision for corporate finance executives and research analysts**

- 394.** (1) A corporate finance executive—
- (a) who is employed by a stock broking company and who is registered with the Commission pursuant to the Commission's Guidelines for Dealers and Dealer's Representatives under the repealed Securities Industry Act 1983; or
  - (b) who is employed by a licensed merchant bank that holds a dealer's licence under the repealed Securities Industry Act 1983,
- immediately before the effective date shall, from the effective date, be deemed to hold a Capital Markets Services Representative's Licence to carry on the regulated activity of advising on corporate finance.
- (2) A research analyst—
- (a) who is employed by a stock broking company and who is registered with the Commission pursuant to the Commission's Guidelines for Dealers and Dealer's Representatives under the repealed Securities Industry Act 1983; or
  - (b) who is employed by a licensed merchant bank that holds a dealer's licence under the repealed Securities Industry Act 1983 immediately before the effective date shall, from the effective date, be deemed to hold a Capital Markets Services Representative's Licence to carry on the regulated activity of investment advice.
- (3) The licences referred to in subsection (1) or (2), shall be valid for one year from the effective date and subject to such terms and conditions as may be specified by the Commission.