

# **Commodity Trading (Amendment) Bill**

---

**Bill No. 23/2007.**

*Read the first time on 21st May 2007.*

A BILL

*intituled*

An Act to amend the Commodity Trading Act (Chapter 48A of the 1993 Revised Edition) and to make consequential amendments to the Financial Advisers Act (Chapter 110 of the 2007 Revised Edition), the Income Tax Act (Chapter 134 of the 2004 Revised Edition) and the Securities and Futures Act (Chapter 289 of the 2006 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 Commodity Trading (Amendment) Act 2007 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

### 5 Amendment of long title

2. The long title to the Commodity Trading Act (referred to in this Act as the principal Act) is amended by deleting the words “trading in certain commodity futures and”.

### Amendment of section 2

10 3. Section 2 of the principal Act is amended —

(a) by deleting the words “commodity futures market” wherever they appear in the definition of “business rules” and substituting in each case the words “commodity market”;

15 (b) by deleting the definitions of “clearing house” and “commodity” and substituting the following definitions:

“clearing house”, in relation to a commodity market, means a body corporate that —

(a) clears and settles commodity contracts; and

20 (b) makes adjustments to the contractual obligations arising out of those commodity contracts;

“commodity” means any produce, item, goods or article that is the subject of any —

(a) commodity forward contract;

(b) leveraged commodity trading;

25 (c) contract made pursuant to trading in differences; or

(d) spot commodity trading,

30 and includes an index, right or interest in such commodity, and such other index, right or interest of any nature as the Board may, by notification in the *Gazette*, prescribe to be a commodity; but does not include any produce, item, goods or article that is the

subject of a commodity futures contract and any index, right or interest in such produce, item, goods or article;”;

- 5 (c) by deleting the words “, but does not include a commodity futures broker” in the definition of “commodity broker”;
- (d) by deleting the words “, but does not include a commodity futures broker’s representative” in the definition of “commodity broker’s representative”;
- 10 (e) by inserting, immediately after the words “with respect to a commodity” in paragraph (b) of the definition of “commodity contract”, the words “, not being a commodity futures contract”;
- (f) by deleting the definition of “commodity floor broker”;
- 15 (g) by deleting the definitions of “commodity futures broker”, “commodity futures broker’s representative”, “commodity futures contract”, “Commodity Futures Exchange”, “commodity futures market”, “commodity futures option transaction”, “commodity futures pool operator”, “commodity futures pool operator’s representative”, “commodity futures trading adviser” and “commodity futures trading adviser’s representative” and substituting the following definition:
- 20 “ “commodity futures contract” means —
- (a) a contract the effect of which is that —
- 25 (i) one party agrees to deliver a specified commodity, or a specified quantity of a specified commodity, to another party at a specified future time and at a specified price payable at that time pursuant to the terms and conditions set out in the business rules of a futures market or pursuant to the business practices of a futures market; or
- 30 (ii) the parties will discharge their obligations under the contract by settling the difference between the value of a specified quantity of a specified commodity agreed at the time of the making of the contract and at a specified future time, such difference being
- 35

determined in accordance with the business rules or practices of the futures market at which the contract is made; or

(b) such other contract or class of contracts as the Board may prescribe,

and includes a futures option transaction;”;

(h) by deleting the comma at the end of paragraph (b) of the definition of “commodity market” and substituting a semi-colon;

(i) by deleting the words “but does not include a Commodity Futures Exchange or a commodity futures market;” in the penultimate and last lines of the definition of “commodity market”;

(j) by deleting paragraph (a) of the definition of “commodity pool operator”;

(k) by deleting the words “, but does not include a commodity futures pool operator’s representative” in the definition of “commodity pool operator’s representative”;

(l) by deleting the comma in the last line of the set out to paragraph (c) of the definition of “commodity trading adviser” and substituting a semi-colon;

(m) by deleting the words “but does not include a commodity futures trading adviser;” in the penultimate and last lines of the definition of “commodity trading adviser”;

(n) by deleting the comma at the end of paragraph (b) of the definition of “commodity trading adviser’s representative” and substituting a semi-colon;

(o) by deleting the words “but does not include a commodity futures trading adviser’s representative;” in the penultimate and last lines of the definition of “commodity trading adviser’s representative”;

(p) by deleting the definition of “customer” and substituting the following definition:

““customer” means a person on whose account a commodity broker carries on trading in commodity contracts;”;

(*q*) by inserting, immediately after the definition of “financial year”, the following definition:

““futures market” and “futures option transaction” have the meanings given to those expressions in the Securities and Futures Act (Cap. 289);”;

(*r*) by deleting the words “a contract or an arrangement that is made on a Commodity Futures Exchange” in paragraph (*a*) of the definition of “leveraged commodity trading” and substituting the words “a commodity futures contract”;

(*s*) by deleting the words “Commodity Futures Exchange” wherever they appear in the definition of “member” and substituting in each case the words “commodity market”;

(*t*) by deleting the words “or commodity futures broker” in the definition of “spot commodity broker”;

(*u*) by deleting the words “or commodity futures broker’s representative” in the penultimate and last lines of the definition of “spot commodity broker’s representative”;

(*v*) by deleting the words “or commodity futures pool operator” in the penultimate and last lines of the definition of “spot commodity pool operator”;

(*w*) by deleting the words “or commodity futures pool operator’s representative” in the definition of “spot commodity pool operator’s representative”;

(*x*) by deleting the semi-colon at the end of the definition of “spot commodity trading” and substituting a full-stop; and

(*y*) by deleting the definition of “trading in commodity futures contracts”.

### **Repeal and re-enactment of section 3**

**4.** Section 3 of the principal Act is repealed and the following section substituted therefor:

**“Application**

**3.** This Act shall not apply to —

- (a) the Singapore Exchange Derivatives Clearing Ltd;
- (b) a person operating a clearing facility within the meaning of the Securities and Futures Act (Cap. 289) who —
  - (i) has notified the Monetary Authority of Singapore of his intent to operate the clearing facility under section 49 of that Act; or
  - (ii) is exempted under section 53 of that Act;
- (c) the holder of a capital markets services licence under the Securities and Futures Act in respect of leveraged foreign exchange trading, when acting lawfully under that Act,

but only to the extent that the activities carried out by such person are regulated under the Securities and Futures Act.”.

**Amendment of section 4**

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

“(1) No person shall establish or maintain or assist in establishing or maintaining or hold himself out as providing or maintaining any commodity market unless such commodity market has been approved by the Board under section 5(2).”.

**Amendment of section 6**

**6.** Section 6(1) of the principal Act is amended by deleting paragraphs (c) and (ca) and substituting the following paragraph:

“(c) with respect to the terms and conditions under which commodity contracts may be made;”.

**Amendment of section 12**

**7.** Section 12 of the principal Act is amended by deleting subsection (2).

**Amendment of section 13**

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

- (a) by deleting paragraphs (a) to (e) of subsection (1);

- (b) by deleting subsections (2), (2A), (3), (4) and (5);
- (c) by deleting the words “subsection (1)(b), (d), (g) or (i)” in subsection (6)(a) and substituting the words “subsection (1)(g) or (i)”; and
- 5 (d) by deleting the words “subsection (1)(a), (c), (e), (f), (h) or (j)” in subsection (6)(b) and substituting the words “subsection (1)(f), (h) or (j)”.

### **Amendment of section 18**

10 **9.** Section 18(2) of the principal Act is amended by deleting paragraph (d) and substituting the following paragraph:

“(d) if, in the case of a representative, the licence of the commodity broker, commodity trading adviser or commodity pool operator, in relation to whom the licence was granted, is revoked;”.

### 15 **Amendment of section 27**

**10.** Section 27 of the principal Act is amended —

- 20 (a) by deleting the words “, commodity futures trading adviser, commodity pool operator and commodity futures pool operator” in subsections (1) and (2) and substituting in each case the words “and commodity pool operator”; and
- (b) by deleting the words “a Commodity Futures Exchange, a clearing house, a commodity trading adviser, a commodity futures trading adviser, a commodity pool operator and a commodity futures pool operator as they apply to a commodity broker or commodity futures broker” in subsection (6) and substituting the words “a clearing house, a commodity trading adviser and a commodity pool operator as they apply to a commodity broker”.

### **Amendment of section 28**

30 **11.** Section 28 of the principal Act is amended —

- (a) by deleting the words “or a Commodity Futures Exchange, a clearing house, a commodity broker, a commodity futures broker, a commodity trading adviser, a commodity futures trading adviser, a commodity pool operator or a commodity

futures pool operator” in subsection (1)(b) and substituting the words “, a clearing house, a commodity broker, a commodity trading adviser or a commodity pool operator”;

5 (b) by deleting sub-paragraph (ii) of subsection (1)(b) and substituting the following sub-paragraph:

“(ii) a duty to enlarge or extend the scope of his audit of the business and affairs of a commodity market, a clearing house, a commodity trading adviser or a commodity pool operator;”;

10 (c) by deleting the words “a Commodity Futures Exchange, a clearing house, a commodity futures broker, a commodity trading adviser, a commodity futures trading adviser, a commodity pool operator or a commodity futures pool operator” in the 25th, 26th and 27th lines of subsection (1) and substituting  
15 the words “a clearing house, a commodity trading adviser or a commodity pool operator”;

(d) by deleting the words “a Commodity Futures Exchange, a clearing house, a commodity broker, a commodity futures broker, a commodity trading adviser, a commodity futures trading adviser, a commodity pool operator or a commodity  
20 futures pool operator” in subsection (2) and substituting the words “a clearing house, a commodity broker, a commodity trading adviser or a commodity pool operator”; and

25 (e) by deleting subsection (4) and substituting the following subsection:

“(4) Where the Board is of the opinion that the whole or any part of the costs and expenses of an auditor appointed under subsection (1)(a) should be borne by a commodity market, a clearing house, a commodity broker, a commodity trading  
30 adviser or a commodity pool operator, as the case may be, the Board may by order in writing direct that the market, clearing house, broker, trading adviser or pool operator, as the case may be, pay a specified amount, being the whole or part of the costs and expenses within the time and manner specified in the order.”.

35



**Amendment of section 30**

12. Section 30(2) of the principal Act is amended by deleting paragraph (c) and substituting the following paragraph:

- 5 “(c) provide for the exemption by the Board of any commodity broker or class of commodity brokers, or any transaction or class of transactions relating to trading in commodity contracts, from any of the provisions of such regulations; and”.

**Amendment of section 31**

- 10 13. Section 31 of the principal Act is amended by deleting subsection (1).

**Amendment of section 32**

14. Section 32 of the principal Act is amended by deleting subsection (5).

**Amendment of section 36**

- 15 15. Section 36(1) of the principal Act is amended by deleting the words “Commodity Futures Exchange, clearing house, commodity broker, commodity futures broker, commodity futures trading adviser, commodity pool operator or commodity futures pool operator” and substituting the  
20 words “clearing house, commodity broker or commodity pool operator”.

**Repeal of section 39**

16. Section 39 of the principal Act is repealed.

**Amendment of section 41**

17. Section 41 of the principal Act is amended —  
25 (a) by deleting subsection (1) and substituting the following subsection:  
30 “(1) The Board may, from time to time, inspect under conditions of secrecy the books, accounts, documents and transactions of a commodity market, a clearing house, a commodity broker, a commodity pool operator or a commodity trading adviser.”; and

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

“(4) Any person appointed by the Board shall at all times have the power to copy or take possession of the books, accounts and other documents of the commodity market, clearing house, commodity broker, commodity pool operator or commodity trading adviser.”.

### **Repeal of section 50**

18. Section 50 of the principal Act is repealed.

### **Amendment of section 52**

19. Section 52(1) of the principal Act is amended by deleting the words “a Commodity Futures Exchange, a clearing house, a commodity broker, a commodity futures broker, a commodity trading adviser, a commodity futures trading adviser, a commodity pool operator or a commodity futures pool operator” and substituting the words “a clearing house, a commodity broker, a commodity trading adviser or a commodity pool operator”.

### **Amendment of section 53**

20. Section 53 of the principal Act is amended by deleting the words “of a Commodity Futures Exchange, of a clearing house, of a commodity broker, of a commodity futures broker, of a commodity trading adviser, of a commodity futures trading adviser, of a commodity pool operator or of a commodity futures pool operator” in the 2nd to 5th lines and substituting the words “of a clearing house, of a commodity broker, of a commodity trading adviser or of a commodity pool operator”.

### **Amendment of section 57**

21. Section 57 of the principal Act is amended —

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

“(a) take or use the title “clearing house”; or”;

(b) by deleting the word “titles” wherever it appears in subsection (1)(b) and substituting in each case the word “title”;

- (c) by deleting the words “commodity futures broker, commodity trading adviser, commodity futures trading adviser, commodity pool operator or commodity futures pool operator” in subsection (2) and substituting the words “commodity trading adviser or commodity pool operator”;
- (d) by deleting the words “commodity futures broker”, “commodity futures trading adviser” and “commodity futures pool operator” in subsection (2)(a); and
- (e) by deleting subsections (4) and (5).

10 **Repeal of section 62**

22. Section 62 of the principal Act is repealed.

**Amendment of section 63**

23. Section 63 of the principal Act is amended —

- (a) by deleting paragraph (a) of subsection (2) and substituting the following paragraph:

“(a) the activities of, and standards to be maintained by, commodity brokers, commodity trading advisers and commodity pool operators, including the manner, method and place of soliciting business by them and the conduct of such solicitation;”;

- (b) by deleting paragraphs (d) and (e) of subsection (2) and substituting the following paragraphs:

“(d) prescribing the form and content of a confirmation statement of commodity contracts entered into on behalf of customers by a commodity broker;

(e) prescribing the particulars to be recorded in, or in respect of, accounts kept by commodity trading advisers and commodity pool operators under this Act;”;

- (c) by deleting sub-paragraph (i) of subsection (4)(a) and substituting the following sub-paragraph:

“(i) who is, or may be, a commodity broker, commodity trading adviser or commodity pool operator, by

reason only of his doing anything which is merely incidental to another business;”; and

(d) by deleting sub-paragraph (iii) of subsection (4)(a) and substituting the following sub-paragraph:

5 “(iii) who is a commodity broker, commodity trading adviser or commodity pool operator, by reason only of the entering into by him of any specified transaction or class of transactions;”.

### Amendment of Schedule

10 **24.** The Schedule to the principal Act is amended —

(a) by deleting sub-paragraph (d) of paragraph 1; and

(b) by deleting paragraph 2 and substituting the following paragraph:

“2. In this Schedule, “accredited investor” means —

(a) an individual —

15 (i) whose net personal assets exceed in value \$2 million (or its equivalent in a foreign currency) or such other amount as the Board may prescribe in place of the first amount; or

20 (ii) whose income in the preceding 12 months is not less than \$300,000 (or its equivalent in a foreign currency) or such other amount as the Board may prescribe in place of the first amount;

(b) a corporation with net assets exceeding \$10 million in value (or its equivalent in a foreign currency) or such other amount as the Board may prescribe, in place of the first amount, as determined by —

25 (i) the most recent audited balance-sheet of the corporation; or

30 (ii) where the corporation is not required to prepare audited accounts regularly, a balance-sheet of the corporation certified by the corporation as giving a true and fair view of the state of affairs of the corporation as of the date of the balance-sheet, which date shall be within the preceding 12 months;

35 (c) the trustee of such trust as the Board may prescribe, when acting in that capacity; or

(d) such other person as the Board may prescribe.”.

## Miscellaneous amendments

25. The principal Act is amended —

- (a) by deleting the words “, COMMODITY FUTURES EXCHANGE” in the heading to Part II;
- 5 (b) by deleting the words “or a Commodity Futures Exchange” in the following provisions:  
 Sections 5(1), (2) and (3) and the marginal note, 6(1) and (2), 7(1)(a) and (2) and 11(1) (2nd line), (2) and (3);
- 10 (c) by deleting the words “or Commodity Futures Exchange” in the following provisions:  
 Sections 6(1)(b), (d) and (i), 15(3), 30(5), 34(1)(j), 35(5)(a) and (b) and 63(2)(b) and paragraph 1(a) of the Schedule;
- (d) by deleting the words “or the Commodity Futures Exchange” in the following provisions:  
 15 Sections 6(1)(d) and 11(1) (3rd and 4th lines) and (2);
- (e) by deleting the words “or a commodity futures market of a Commodity Futures Exchange” in section 8(1);
- (f) by deleting the words “or commodity futures contracts” wherever they appear in the following provisions:  
 20 Sections 9(2)(a), 20(2)(a), 34(1) and (2) (5th and 6th lines and penultimate and last lines), 36(1)(a) and (c), 42(1), 43(b), 45, 48, 54(a) and 63(4)(a)(ii);
- (g) by deleting the words “or a commodity futures market” in the following provisions:  
 25 Sections 9(2)(a), 11(1) (9th line) and 35(1) and (4);
- (h) by deleting the words “, Commodity Futures Exchange” in the following provisions:  
 Sections 11 (marginal note) and 37(1) and the marginal note;
- 30 (i) by deleting the words “or a commodity futures broker” in the following provisions:  
 Sections 12(1)(a) and (b)(i), 23(1)(a) and (3) and 30(3);

- (j) by deleting the words “or a Commodity Futures Exchange or commodity futures market” in section 12(1)(b)(ii);
- (k) by deleting the words “and commodity futures brokers” in section 22(1);
- 5 (l) by deleting the words “and commodity futures broker” in the following provisions:  
Sections 22(2)(e) and 30(1);
- (m) by deleting the words “commodity futures broker,” in section 23(1);
- 10 (n) by deleting the words “or commodity futures broker” wherever they appear in the following provisions:  
Sections 23(1) and (2), 24(1), 25(1)(a) and (b), 30(3) to (6) and 32(1);
- (o) by deleting the words “futures broker” in the last line of  
15 section 23(1) and substituting the words “commodity broker”;
- (p) by deleting the words “or commodity futures broker’s” in section 24(1)(a) and (b);
- (q) by deleting the words “, a Commodity Futures Exchange” wherever they appear in the following provisions:  
20 Sections 24(1)(d) and (e) and (3), 34(1), (2), (4), (5) and (6), 37(2), 38(2), 51(1), 54(c) and 55;
- (r) by deleting the word “, Exchange” wherever it appears in the following provisions:  
25 Sections 24(3), 30(5)(b), 34(1) (penultimate line), 37(1) and (2) and 38(2);
- (s) by deleting the words “or commodity futures market” wherever they appear in the following provisions:  
Sections 27(2), 35(5)(a) and (b), 38(1), 43(a), 44 and 46(a);
- 30 (t) by deleting the words “or commodity futures pool operator” in the following provisions:  
Sections 27(3), 31(2), (3) and (4) and 32(2) (1st line);
- (u) by deleting the words “or Exchange” in section 30(5);

- (v) by deleting the words “or commodity futures contract” wherever they appear in the following provisions:  
 Sections 30(5)(a) and (6), 32(1) and (4), 35(1) and (5)(a) and (b), 44, 46(a) and (b), 47 and 63(2)(c);
- 5 (w) by deleting the words “or commodity futures trading adviser” in section 32(3) (1st and 6th lines) and (4);
- (x) by deleting the words “or commodity futures trading adviser’s” in section 32(4);
- 10 (y) by deleting the words “by broker, pool operator and trading adviser” in the marginal note of section 32;
- (z) by deleting the words “or commodity futures contract,” in the following provisions:  
 Sections 34(1) (5th line) and (2) (5th line) and 48;
- 15 (za) by deleting the words “or commodity futures contracts,” in section 34(2) (penultimate line);
- (zb) by deleting the words “, or a Commodity Futures Exchange with the approval of the Board,” in section 35(6);
- (zc) by deleting the words “Commodity Futures Exchange or a” in section 38(1) (7th line);
- 20 (zd) by deleting the words “, commodity futures broker” in section 38(1) (8th line);
- (ze) by deleting the words “a Commodity Futures Exchange,” in the following provisions:  
 Sections 42(1) and (3) and 54;
- 25 (zf) by deleting the word “Exchange,” wherever it appears in the following provisions:  
 Sections 42(1) and 53(a), (b) and (c);
- (zg) by deleting the words “Commodity Futures Exchange, a” in section 42(2);
- 30 (zh) by deleting the words “, commodity broker’s or commodity futures broker’s position” in section 51(2)(b) (5th and 6th lines) and substituting the words “or commodity broker’s position”; and

- (zi) by deleting the words “Commodity Futures Exchange or” in section 57(1).

### **Consequential amendments to Financial Advisers Act**

26. The Financial Advisers Act (Cap. 110) is amended —

- 5 (a) by inserting, immediately after the definition of “collective investment scheme” in section 2(1), the following definition:

““commodity” has the same meaning as in section 2(1) of the Securities and Futures Act;”; and

- 10 (b) by inserting, immediately after section 104, the following section:

#### **“Regulations to apply Act to persons previously regulated under Commodity Trading Act**

15 **104A.**—(1) The Authority may by regulations prescribe such provisions as it may consider necessary or expedient for the purpose of applying this Act in relation to commodity futures trading advisers and commodity futures trading adviser’s representatives; and for this purpose this Act shall apply with such modifications as may be prescribed.

20 (2) In subsection (1), “commodity futures trading adviser” and “commodity futures trading adviser’s representative” have the meanings given to those expressions in the Commodity Trading Act (Cap. 48A) in force immediately before the commencement of this provision.”.

### **Consequential amendments to Income Tax Act**

25 27. Section 43K of the Income Tax Act (Cap. 134) is amended —

- (a) by deleting the words “a prescribed Commodity Futures Exchange” in subsection (1) and substituting the words “the Corporation known as the Singapore Commodity Exchange Ltd or any other prescribed exchange”;
- 30 (b) by deleting the words “the prescribed Commodity Futures Exchange” in subsection (1)(b) and substituting the words “the Singapore Commodity Exchange Ltd or the prescribed exchange”;



- (c) by deleting subsection (2); and
- (d) by deleting the words “commodity futures exchange” in the section heading and substituting the words “Singapore Commodity Exchange Ltd, etc.”.

5 **Consequential amendments to Securities and Futures Act**

**28.** The Securities and Futures Act (Cap. 289) is amended —

- (a) by deleting the definition of “commodity” in section 2(1) and substituting the following definition:

10                   ““commodity”, in relation to a futures contract, means gold  
or any produce, item, goods, article or financial  
instrument, and includes an index, right or interest in  
such commodity other than a financial instrument; and  
such other index, right or interest of any nature as the  
Authority may, by notification in the *Gazette*, prescribe  
15                   to be a commodity;”;

- (b) by inserting, immediately after section 4A, the following section:

**“Application**

**4B.** This Act does not apply to —

- 20                   (a) a body corporate approved as a commodity market  
under section 5 of the Commodity Trading Act  
(Cap. 48A);
- (b) a body corporate approved as a clearing house under  
section 9 of that Act; or
- 25                   (c) the holder of a licence issued under that Act when  
acting lawfully under that Act,

but only to the extent that the activities carried out by such  
person are regulated under that Act.”; and

- (c) by inserting, immediately after section 341, the following  
section:

**“Regulations to apply Act to persons and matters  
previously regulated under Commodity Trading Act**

5           **342.**—(1) The Authority may by regulations prescribe such provisions as it may consider necessary or expedient for the purpose of applying this Act in relation to commodity futures contracts, trading in futures contracts, commodity futures brokers, commodity futures broker’s representatives, Commodity Futures Exchanges, commodity futures markets, commodity futures pool operators and commodity futures pool operator’s representatives; and for this purpose this Act shall apply with such modifications as may be prescribed.

10           (2) In subsection (1), “commodity futures contract”, “trading in futures contract”, “commodity futures broker”, “commodity futures broker’s representative”, “Commodity Futures Exchange”, “commodity futures market”, “commodity futures pool operator” and “commodity futures pool operator’s representative” have the meanings given to those expressions in the Commodity Trading Act (Cap. 48A) in force immediately before the commencement of this provision.”.

20           **Transitional and savings provisions**

25           **29.**—(1) This Act shall not affect any inquiry under section 19 of the principal Act commenced before the date of commencement of this Act against a commodity futures broker or a commodity futures broker’s representative; and every such inquiry may be continued and everything in relation thereto may be done in all respects (other than the exercise of the powers under section 19(2) of the principal Act) after that day as if this Act had not been enacted.

30           (2) This Act shall not affect any right of appeal accrued before the date of commencement of this Act against an order made under section 19 of the principal Act in relation to a commodity futures broker or a commodity futures broker’s representative.

(3) This Act shall not affect —

35           (a) the exercise of any of the powers of the Board under section 39 of the principal Act in relation to any act occurring before the date of commencement of this Act; or

(b) any right of appeal that has accrued before the date of commencement of this Act under subsection (4) of that section.

(4) An auditor appointed under section 23 or 27(6) of the principal Act in respect of a Commodity Futures Exchange or a commodity futures broker and who has not completed his duties under that section by the date of commencement of this Act shall, unless the Monetary Authority of Singapore otherwise determines, continue to carry out his duties as if he were appointed by the Monetary Authority of Singapore under section 109 of the Securities and Futures Act (Cap. 289) in relation to that Exchange or person; and the provisions of the Securities and Futures Act shall apply as if he were so appointed.

(5) The Minister may by regulations prescribe such further transitional and savings provisions as he may consider necessary or expedient within 2 years of the date of commencement of this Act.

---

## EXPLANATORY STATEMENT

This Bill seeks to amend the Commodity Trading Act (Cap. 48A) to transfer regulatory oversight of futures contracts and associated brokers, advisers, markets and clearing houses from the International Enterprise Singapore Board (IE Singapore) under that Act to the Monetary Authority of Singapore (MAS) under the Securities and Futures Act (SFA) and the Financial Advisers Act (FAA).

The Bill also makes consequential amendments to the Financial Advisers Act (Cap. 110), the Income Tax Act (Cap. 134) and the Securities and Futures Act (Cap. 289).

Clause 1 relates to the short title and commencement.

Clause 2 amends the long title by deleting the reference to commodity futures as these will no longer be governed by the Act.

Clause 3 amends section 2 (Interpretation) by inserting definitions of “commodity futures contract”, “futures market” and “futures option transaction” to align the meanings of those terms with their meanings in the SFA. The clause also makes a number of technical amendments to the section by removing definitions and expressions no longer applicable as a result of the transfer of regulatory oversight mentioned above.

Clause 4 repeals and re-enacts section 3 (Application) by including, in the list of persons to which the Act does not apply, a person operating a clearing facility who has given a notification in accordance with section 49 of the SFA or who has been exempted under section 53 of the SFA.

Clauses 5 to 15, 17, 19, 20, 21, 23 and 25 make technical amendments to various provisions of the Act by removing provisions and expressions no longer applicable as a result of the transfer of regulatory oversight mentioned above.

Clauses 16 and 18 repeal sections 39 (Review of Commodity Futures Exchanges' disciplinary action) and 50 (Convicted persons liable to pay compensation to person who traded in commodity futures contracts with him), respectively, as a Commodity Futures Exchange and trading in commodity futures contracts will no longer be regulated by the Act.

Clause 22 repeals section 62 (Commodity contracts not gaming or wagering contracts) as the same rule is found in section 5 of the Civil Law Act (Cap. 43).

Clause 24 redefines the term "accredited investor" in the Schedule (which sets out exemptions from Part III of the Act relating to licences) to provide that an individual whose net assets exceed \$2 million or whose income in the preceding 12 months is not less than \$300,000 may be considered an accredited investor, to provide that a trustee of a prescribed trust may be considered an accredited investor, to enable IE Singapore to vary the minimum amount of net assets for which a person may be considered an accredited investor, and to enable IE Singapore to prescribe other persons as accredited investors.

Clause 26 amends the FAA —

- (a) to incorporate a definition for the term "commodity" by reference to its definition under the SFA; and
- (b) to empower MAS to make regulations for the application of the FAA to persons who will no longer be regulated by the Commodity Trading Act (Cap. 48A) but will be regulated by the FAA.

Clause 27 makes technical amendments to section 43K (Concessionary rate of tax for members of commodity futures exchange) of the Income Tax Act (Cap. 134).

Clause 28 amends the SFA —

- (a) to include, within the definition of "commodity" in that Act, tangible commodities, an index, right or interest therein, and any other index, right or interest prescribed by the Authority as a commodity;
- (b) to insert a new section 4B disapplying the SFA to various persons regulated by the Commodity Trading Act; and
- (c) to empower MAS to make regulations for the application of the SFA to persons who will no longer be regulated by the Commodity Trading Act but will be regulated by the SFA.

Clause 29 prescribes transitional and savings provisions for the Bill. Inquiries under section 19 instituted before the commencement of the Bill against persons no longer regulated under the Act may be continued. IE Singapore may continue to review a Commodity Futures Exchange's disciplinary action or take disciplinary action against a member of the Exchange under section 39 if the event concerned occurs before such commencement. A right of appeal that has accrued before such commencement may continue to be exercised. An auditor appointed under section 23 or 27(6) for a person no longer regulated by the Act may continue to perform his duties as if he were appointed under the SFA. The Minister may also prescribe other transitional provisions within 2 years from the commencement of the Bill.

### EXPENDITURE OF PUBLIC MONEY

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

---