

**THIS VERSION OF THE REGULATIONS IS IN DRAFT FORM AND
SUBJECT TO CHANGE. IT IS ALSO SUBJECT TO REVIEW BY THE
ATTORNEY GENERAL'S CHAMBERS.**

FINANCIAL ADVISERS ACT
(CHAPTER 110, SECTION 104)

FINANCIAL ADVISERS (EXEMPTION FROM REQUIREMENTS) (CROSS-
BORDER ARRANGEMENTS) (FOREIGN RELATED CORPORATIONS)
REGULATIONS

In exercise of the powers conferred by section 104(1) of the Financial Advisers Act, the Monetary Authority of Singapore makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Financial Advisers (Exemption from Requirements) (Cross-Border Arrangements) (Foreign Related Corporations) Regulations and come into operation on 9 October 2021.

Definitions

2. In these Regulations, unless the context otherwise requires —

“accredited investor” means any of the following persons in relation to a counterparty, if the person has opted to be treated by the counterparty as an accredited investor for all the consent provisions, under regulation 3(2) of the Securities and Futures (Classes of Investors) Regulations 2018 (G.N. No. S 665/2018) —

- (a) an individual mentioned in section 4A(1)(a)(i) of the Securities and Futures Act (Cap. 289);
- (b) a corporation mentioned in section 4A(1)(a)(ii) of the Securities and Futures Act;

- (c) a trustee mentioned in section 4A(1)(a)(iii) of the Securities and Futures Act;
- (d) a person mentioned in section 4A(1)(a)(iv) of the Securities and Futures Act;

“AML/CFT requirement”, in relation to a foreign jurisdiction, means a law or regulatory requirement of that foreign jurisdiction for the detection or prevention of money laundering or the financing of terrorism;

“consent provision” and “counterparty” have the same meanings as in regulation 3(9) of the Securities and Futures (Classes of Investors) Regulations 2018;

“cross-border arrangement”, in respect of a licensed financial adviser or a specified exempt financial adviser, means the policies and procedures by which its FRC carries on business in providing any of the following financial advisory services in Singapore other than the financial advisory service mentioned in paragraph 2 of the Second Schedule to the Act —

- (a) in the case of a licensed financial adviser, the financial advisory service in connection with the type or types of investment products that the licensed financial adviser is authorised to provide by its licence;
- (b) in the case of a specified exempt financial adviser who is exempt from the requirement to hold a financial adviser’s licence to act as a financial adviser in Singapore, the financial advisory service in connection with the type or types of investment products, which it is providing in reliance on the exemption;

“expert investor” has the same meaning as in section 4A(1)(b) of the Securities and Futures Act;

“FAR” means the Financial Advisers Regulations (Rg 2);

“FATF” means the intergovernmental body known as the Financial Action Task Force;

“foreign regulatory authority” means —

- (a) an authority of a country or jurisdiction other than Singapore, exercising any function that corresponds to a regulatory function of the Authority under the Monetary Authority of Singapore Act (Cap. 186); or
- (b) a non-governmental organisation exercising any function that corresponds to a regulatory function of the Authority under the Monetary Authority of Singapore Act (Cap. 186) under the law of or by delegation from an authority of a country or jurisdiction other than Singapore;

“foreign representative” means a representative of the FRC who performs on behalf of the FRC, any financial advisory service conducted by the FRC under a cross-border arrangement;

“FRC”, in respect of a licensed financial adviser or a specified exempt financial adviser, means a foreign company that is a related corporation of the licensed financial adviser or the specified exempt financial adviser;

“institutional investor” has the same meaning as in section 4A(1)(c) of the Securities and Futures Act (Cap. 289);

“specified exempt financial adviser” means a person exempted from the requirement to hold a financial adviser’s licence under section 23(1)(a), (b), (c), (d) or (e) of the Act; and

“specified FRC” means any of the following FRCs —

- (a) an FRC of a licensed financial adviser or a specified exempt financial adviser who, immediately before 9 October 2021, was carrying on business in providing any financial advisory service under a cross-border

arrangement that is approved by the Authority under paragraph 11 of the First Schedule to the Act;

- (b) an FRC of a licensed financial adviser or a specified exempt financial adviser who, immediately before 9 October 2021, was carrying on business in providing any financial advisory service under a cross-border arrangement in reliance on the exemption under regulation 32CA(1) of the FAR,

where the relevant licensed financial adviser or specified exempt financial adviser lodges with the Authority a notice of the cross-border arrangement in a form to be specified by the Authority on or before 8 April 2022.

Exemption for FRCs of licensed financial advisers or specified exempt financial advisers providing any financial advisory service under a cross-border arrangement

3.—(1) Subject to regulation 5, a FRC of a licensed financial adviser or a specified exempt financial adviser is exempt from —

- (a) sections 6(1), 22A and 23A of the Act; and
- (b) regulations 18B, 20, 21, 22, and 22D of the FAR,

in respect of any financial advisory service provided under a cross-border arrangement with the licensed financial adviser or the specified exempt financial adviser.

(2) The exemption under paragraph (1) does not apply to a specified FRC until the date the licensed financial adviser or the specified exempt financial adviser (as the case may be) lodges with the Authority a notice of the cross-border arrangement in a form to be specified by the Authority.

Exemption for foreign representatives of FRCs providing any financial advisory service under a cross-border arrangement

4. A person who acts as a foreign representative of an FRC of a licensed financial adviser or a specified exempt financial adviser is exempt from:

- (a) sections 22A and 23B(1A) of the Act; and
- (b) regulation 21(3) of the FAR,

in respect of the financial advisory service which the FRC is exempted for under regulation 3(1), if the FRC is exempt under regulation 3(1).

Scope of exemptions under regulation 3

5. The exemptions under regulation 3 only apply if —

- (a) the FRC is subject to regulatory oversight by a foreign regulatory authority in a foreign jurisdiction in respect of the activities of the FRC under the cross-border arrangement;
- (b) the FRC is —
 - (i) subject to AML/CFT requirements in the foreign jurisdiction mentioned in paragraph (a) that are consistent with the standards set by the FATF; and
 - (ii) supervised by a foreign regulatory authority in that foreign jurisdiction in respect of compliance with the AML/CFT requirements;
- (c) the foreign jurisdiction mentioned in paragraph (a) is —
 - (i) not subject to any sanction imposed pursuant to a Resolution of the Security Council of the United Nations; or
 - (ii) subject to a sanction imposed pursuant to a Resolution of the Security Council of the United Nations, but the Authority has given its approval in writing for the commencement or continuation of the cross-border arrangement;
- (d) the FRC carries on business in the financial advisory service mentioned in regulation 3 with classes of investors, that the licensed financial adviser is restricted to under conditions or restrictions in its financial adviser's licence

or the specified exempt financial adviser is restricted to under conditions or restrictions imposed on the specified exempt financial adviser; and

- (e) the FRC does not carry on business in the financial advisory service mentioned in regulation 3 with any person who is not an accredited investor, institutional investor or expert investor.

Cessation of exemptions under regulation 3

6.—(1) A FRC of a licensed financial adviser or a specified exempt financial adviser, that is not a specified FRC, who is otherwise exempted under regulation 3, shall not be or shall cease to be so exempted, if the licensed financial adviser or the specified exempt financial adviser does not lodge with the Authority a notice of the cross-border arrangement in a form to be specified by the Authority within 14 days from the date that the FRC commences business in providing a financial advisory service under the cross-border arrangement in reliance on the exemptions under regulation 3.

(2) A specified FRC who, immediately before 9 October 2021, was carrying on business in providing any financial advisory service under a cross-border arrangement in reliance on the exemption under regulation 32CA(1) of the FAR, is not exempted or ceases to be exempted under that regulation, upon the lodgement of the notice mentioned in paragraph (1).