

**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.**

PART VI

EXEMPTIONS

Division 1 — General exemptions

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Exemption for foreign research houses

32C.—(1) Subject to paragraph (1A), a foreign research house shall be exempt under section 23(1)(f) of the Act from holding a financial adviser's licence in respect of advising others by issuing or promulgating any research analyses or research reports concerning any investment product, to any investor under an arrangement between the foreign research house and a financial adviser in Singapore, ~~subject to the following conditions:~~

(1A) The exemption under paragraph (1) applies only if -

- (a) the financial adviser in Singapore is —
 - (i) licensed under the Act; or
 - (ii) exempt from holding a financial adviser's licence under section 23(1)(a), (b), (c), (d) or (e) of the Act,

to provide the financial advisory service of advising others by issuing or promulgating research analyses or research reports concerning any investment product;

- (b) the foreign research house is ~~licensed, registered, approved, authorised or otherwise supervised by a regulatory authority in the foreign country in which it carries on business, in accordance with the laws of that foreign country~~ subject to regulatory oversight by a foreign regulatory authority in a foreign jurisdiction in respect of its activities;
- (c) the research analysis or research report shall contain a statement to the effect that recipients of the analysis or report are to contact the financial adviser in Singapore in respect of any matters arising from, or in connection with, the analysis or report; and
- (d) the analysis or report contains a statement to the effect that the financial adviser in Singapore accepts legal responsibility for the contents of the

analysis or report without any disclaimer limiting or otherwise curtailing such legal responsibility unless the analysis or report is issued or promulgated to a person who is any of the following:

- (i) an accredited investor;
- (ii) an expert investor;
- (iii) an institutional investor;
- (iv) an ex-accredited investor who is an existing customer of the financial adviser in Singapore, but only in respect of any research analysis or research report issued or promulgated in the period from 8 October 2018 to 7 April 2019 (both dates inclusive).

[S 294/2019 wef 08/10/2018]

(2) Subject to paragraph (5), a specified exempt financial adviser is exempt from:

- (a) sections 22A, 23B(3), 25 to 29, 32, 33, 34 and 36 of the Act in respect of the financial advisory service mentioned under paragraph 2 of the Second Schedule of the Act provided by its foreign office under a cross-border arrangement;
- (b) regulations 18B, 21, 22, and 22D in respect of the financial advisory service mentioned under paragraph 2 of the Second Schedule of the Act provided by its foreign office under a cross-border arrangement;
- (c) section 38 of the Act in respect of foreign representatives that act as representatives in respect of the financial advisory service mentioned under paragraph 2 of the Second Schedule of the Act provided by its foreign office under a cross-border arrangement and supervisors that are responsible, whether directly or indirectly, for the supervision or management of the conduct and performance of the foreign representatives or other such supervisors; and
- (d) section 39(3)(a) of the Act in respect of foreign representatives that act as representatives in respect of the financial advisory service mentioned under paragraph 2 of the Second Schedule of the Act provided by its foreign office under a cross-border arrangement.

(3) Subject to paragraph (5), a licensed financial adviser is exempt from:

- (a) sections 22A, 23B(3), 25 to 29 and 36 of the Act in respect of the financial advisory service mentioned under paragraph 2 of the Second Schedule of the Act provided by its foreign office under a cross-border arrangement;

(b) regulations 18B, 21, 22, and 22D in respect of the financial advisory service mentioned under paragraph 2 of the Second Schedule of the Act provided by its foreign office under a cross-border arrangement; and

(c) section 38 of the Act in respect of foreign representatives that act as representatives in respect of the financial advisory service mentioned under paragraph 2 of the Second Schedule of the Act provided by its foreign office under a cross-border arrangement and supervisors that are responsible, whether directly or indirectly, for the supervision or management of the conduct and performance of the foreign representatives or other such supervisors; and

(d) section 39(3)(a) of the Act in respect of foreign representatives that act as representatives in respect of the financial advisory service mentioned under paragraph 2 of the Second Schedule of the Act provided by its foreign office under a cross-border arrangement.

(4) A foreign representative of a licensed financial adviser or a specified exempt financial adviser is exempt from sections 22A , 23B(1) and 23B(1A) of the Act and regulation 21(3), when acting as a representative in respect of the financial advisory service mentioned under paragraph 2 of the Second Schedule of the Act provided by its foreign office under a cross-border arrangement, in reliance on the exemptions under paragraphs (2) or (3) (as the case may be).

(5) The exemptions under paragraph (2) and (3) only applies if all of the following conditions are satisfied —

(a) the licensed financial adviser or the specified exempt financial adviser is subject to regulatory oversight by a foreign regulatory authority in a foreign jurisdiction in respect of the activities of its foreign office;

(b) the licensed financial adviser or specified exempt financial adviser has implemented policies and procedures to ensure that in the course of providing the financial advisory service mentioned under paragraph 2 of the Second Schedule of the Act through its foreign office —

(i) each of the research analyses or research reports shall contain a statement to the effect that recipients of the analysis or report are to contact a representative of the licensed financial adviser or specified exempt financial adviser who is located in Singapore in respect of any matters arising from, or in connection with, the analysis or report; and

(ii) each of the analyses or reports contains a statement to the effect that the licensed financial adviser or specified exempt financial adviser accepts legal responsibility for the contents of the analysis or report without any disclaimer limiting or otherwise curtailing such legal responsibility unless the analysis or report is issued or promulgated to a person who is any of the following:

- (A) an accredited investor;
- (B) an expert investor;
- (C) an institutional investor;

(6) Where the foreign office of a licensed financial adviser carried on a business of providing a financial advisory service mentioned under paragraph 2 of the Second Schedule of the Act in respect of any specified OTC derivatives contracts under a cross-border arrangement in reliance on the exemption under regulation 40BB(1) immediately before 9 October 2021, the exemption under paragraph (3) does not apply to the licensed financial adviser in respect of the business carried on by the foreign office if the exemption under regulation 40BB(1) of the FAR has not ceased as at 9 October 2021, until the date immediate after the ceasing of the exemption under regulation 40BB(1).

~~(7)~~ In this regulation —

“cross-border arrangement”, in respect of a licensed financial adviser or a specified exempt financial adviser, means the policies and procedures of the licensed financial adviser or specified exempt financial adviser, by which its foreign office carries on business in the following financial advisory service:

(a) in the case of a licensed financial adviser, the financial advisory service mentioned under paragraph 2 of the Second Schedule of the Act in connection with the types 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, the financial advisory service mentioned under paragraph 2 of the Second Schedule of the Act in connection with the types or types of investment products, which the specified exempt financial adviser is providing in reliance on an exemption from the requirement to hold a financial adviser’s licence to act as a financial adviser in Singapore;

~~“foreign country” means a country or other than Singapore;~~

“foreign research house” means a foreign company which carries on a business of providing the financial advisory service of advising others by issuing or promulgating research analyses or research reports, whether in electronic, print or other form, concerning any investment product;

“foreign office”, in respect of a licensed financial adviser or a specified exempt financial adviser means, an office or branch of the licensed financial adviser or

the specified exempt financial adviser (including its head office) that is located outside Singapore;

“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” in respect of a licensed financial adviser or a specified exempt financial adviser, means a representative of the licensed financial adviser or the specified exempt financial adviser who is

- (a) ordinary resident outside Singapore; and
- (b) not an appointed or provisional representative of any principal in Singapore; and
- (c) carries out for the licensed financial adviser or the specified exempt financial adviser, any financial advisory service provided by its foreign office under a cross-border arrangement; and

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

“regulatory authority”, in relation to a foreign country, means an authority of the foreign country exercising any function that corresponds to a regulatory function of the Authority under the Act.

[S 274/2008 wef 28/05/2008]