

MAS Notice XXX

[DD MMM YYYY]

NOTICE TO SPECIFIED HOLDERS OF A CAPITAL MARKETS SERVICES LICENCE AND SPECIFIED EXEMPT PERSONS
MONETARY AUTHORITY OF SINGAPORE ACT, CAP. 186

PREVENTION OF MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM – SPECIFIED HOLDERS OF A CAPITAL MARKETS SERVICES LICENCE AND SPECIFIED EXEMPT PERSONS IN RELATION TO CROSS-BORDER ARRANGEMENTS UNDER THE SECURITIES AND FUTURES (EXEMPTION FROM REQUIREMENTS) (CROSS-BORDER ARRANGEMENTS) (FOREIGN OFFICES) REGULATIONS

1 INTRODUCTION

- 1.1 This Notice is issued pursuant to section 27B of the Monetary Authority of Singapore Act (Cap. 186) (“MAS Act”) and applies to all specified holders of a capital markets services licence and specified exempt persons as defined under regulation 2 of the Securities and Futures (Exemption from Requirements) (Cross-Border Arrangements) (Foreign Offices) Regulations (“SF(E)(CBA)(FO)R”) in relation to their cross-border arrangements that they enter into with their foreign offices.
- 1.2 This Notice shall take effect from 9 October 2021, and shall apply to a Specified Regulated Entity —
- (a) where a foreign office of a Specified Regulated Entity only commences a business in a regulated activity under a cross-border arrangement after 8 October 2021, from the date the foreign office of the Specified Regulated Entity commences business in a regulated activity under a cross-border arrangement in reliance on the exemptions under regulation 3 of the SF(E)(CBA)(FO)R; and
 - (b) where a foreign office of a Specified Regulated Entity was, immediately prior to 9 October 2021, carrying on business in a regulated activity under an existing cross-border arrangement in reliance on any of the exemptions mentioned under regulation 6(3) of the SF(E)(CBA)(FO)R, and intends to continue carrying on business under the cross-border arrangement in reliance on the exemptions under regulation 3 of the SF(E)(CBA)(FO)R after 8 October 2021, from the date of lodgement of the notice of cross-border arrangement with the Authority as required under paragraph 4.2 of MAS Notice SFA [xx].

2 DEFINITIONS

2.1 For the purposes of this Notice —

“AML/CFT” means anti-money laundering and countering the financing of terrorism;

“beneficial owner”, in relation to a customer of a foreign office of a Specified Regulated Entity, means the natural person who ultimately owns or controls the customer or the natural person on whose behalf a transaction is conducted or business relations are established, and includes any person who exercises ultimate effective control over a legal person or legal arrangement;

“business relations” means —

- (a) the opening or maintenance of an account in relation to the provision of services in any regulated activity under a cross-border arrangement by the foreign office of a Specified Regulated Entity in the name of; or
- (b) the provision of services in any regulated activity under a cross-border arrangement by the foreign office of a Specified Regulated Entity to,

a person (whether a natural person, legal person or legal arrangement);

“CDD” means customer due diligence;

“connected party” —

- (a) in relation to a legal person (other than a partnership), means any director or any natural person having executive authority in the legal person;
- (b) in relation to a legal person that is a partnership, means any partner or manager¹; and
- (c) in relation to a legal arrangement, means any natural person having executive authority in the legal arrangement;

“Core Principles” refers to the Core Principles for Effective Banking Supervision issued by the Basel Committee on Banking Supervision, the Objectives and Principles for Securities Regulation issued by the International Organisation of Securities Commissions, or the Insurance Core Principles issued by the International Association of Insurance Supervisors;

“customer”, in relation to a foreign office of a Specified Regulated Entity, means a person (whether a natural person, legal person or a legal arrangement) —

¹ In the case of a limited liability partnership or a limited partnership.

- (a) with whom the foreign office of the Specified Regulated Entity establishes or intends to establish business relations;
- (b) for whom the foreign office of the Specified Regulated Entity undertakes or intends to undertake any transaction without an account being open; or
- (c) who invests into an investment vehicle to which the foreign office of the Specified Regulated Entity provides the regulated activity of fund management, and

who is not also a customer of the Specified Regulated Entity, as defined under the relevant AML/CFT Notice;

“direct life insurer” means a direct insurer licensed under section 8 of the Insurance Act (Cap. 142) to carry on life business as described in section 2(1) of the Insurance Act;

“financial group” means a group that consists of a legal person or legal arrangement exercising control and coordinating functions over the rest of the group for the application of group supervision under the Core Principles, and its branches and subsidiaries that are financial institutions as defined in section 27A(6) of the MAS Act or the equivalent financial institutions outside Singapore;

“legal arrangement” means a trust or other similar arrangement;

“legal person” means an entity other than a natural person that can establish a permanent customer relationship with a financial institution or otherwise own property;

“partnership” means a partnership, a limited partnership within the meaning of the Limited Partnerships Act (Cap. 163B) or a limited liability partnership within the meaning of the Limited Liability Partnerships Act (Cap. 163A);

“personal data” has the same meaning as defined in section 2(1) of the Personal Data Protection Act 2012 (Act 26 of 2012);

“regulated activity” has the same meaning as defined in section 2(1) of the Securities and Futures Act (Cap. 289);

“relevant AML/CFT Notice” means –

- (a) in relation to a Specified Regulated Entity that is a specified holder of a capital markets services licence or a specified exempt person who is a person exempted from the requirement to hold a capital markets services licence under paragraph 3(1)(d) or 3A(1)(d) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations, MAS Notice SFA 04-N02;

- (b) in relation to a Specified Regulated Entity that is a specified exempt person who is a person exempted from the requirement to hold a capital markets services licence under section 99(1)(a) of the SFA, MAS Notice 626;
- (c) in relation to a Specified Regulated Entity that is a specified exempt person who is a person exempted from the requirement to hold a capital markets services licence under section 99(1)(b) of the SFA, MAS Notice 1014;
- (d) in relation to a Specified Regulated Entity that is a specified exempt person who is a person exempted from the requirement to hold a capital markets services licence under section 99(1)(c) of the SFA, MAS Notice 824; and
- (e) in relation to a Specified Regulated Entity that is a specified exempt person who is a direct life insurer exempted from the requirement to hold a capital markets services licence under section 99(1)(d) of the SFA, MAS Notice 314; and

“Specified Regulated Entity” means a specified holder of a capital markets services licence or a specified exempt person who has entered into a cross-border arrangement with its foreign office.

- 2.2 The expressions used in this Notice shall, except where defined in this Notice or where the context otherwise requires, have the same meanings as in regulation 2 of the SF(E)(CBA)(FO)R.

3 RECORD KEEPING

- 3.1 A Specified Regulated Entity must keep or cause to be kept all data, documents and information relating to any CDD performed on customers of the foreign office of the Specified Regulated Entity by the foreign office.
- 3.2 A Specified Regulated Entity shall, for the purposes of record retention under paragraph 3.1, and when setting its record retention policies, comply with the following record retention periods:
- (a) for CDD information relating to the business relations and transactions undertaken without an account being opened, as well as account files, business correspondence and results of any analysis undertaken, a period of at least 5 years following the termination of such business relations or completion of such transactions; and
 - (b) for data, documents and information relating to a transaction, including any information needed to explain and reconstruct the transaction, a period of at least 5 years following the completion of the transaction.
- 3.3 A Specified Regulated Entity may retain data, documents and information mentioned in

paragraph 3.1 as originals or copies, in paper or electronic form or on microfilm, provided that they are admissible as evidence in a Singapore court of law.

4 INTERNAL POLICIES

- 4.1 Subject to paragraph 4.2, a Specified Regulated Entity must ensure that there are adequate internal policies, procedures and controls to ensure that the performance of CDD measures by its foreign office to prevent money laundering and the financing of terrorism is consistent with the requirements set out under the relevant AML/CFT Notice applicable to the Specified Regulated Entity, in respect of customers of the foreign office of the Specified Regulated Entity.
- 4.2 Paragraph 4.1 does not apply to a Specified Regulated Entity if the Specified Regulated Entity is incorporated in Singapore and the foreign office is a branch of the Specified Regulated Entity in its financial group².

5 PROVISION OF RECORDS UPON REQUEST

- 5.1 A Specified Regulated Entity must provide the Authority with —
- (a) any of the data, documents and information mentioned in paragraph 3.1;
 - (b) copies of the policies, procedures and controls mentioned in paragraph 4.1; and
 - (c) where applicable, the translation of such records in the English language,
- upon the Authority's written request, within the specific time period imposed by the Authority.

6 PERSONAL DATA

- 6.1 For the purposes of paragraph 6, "individual" means a natural person, whether living or deceased.
- 6.2 For the purposes of complying with this Notice, a Specified Regulated Entity may, whether directly or through a third party, collect, use and disclose personal data of an individual customer of the foreign office of the Specified Regulated Entity, an individual appointed to act on behalf of a customer of the foreign office of the Specified Regulated Entity, an individual connected party of a customer of the foreign office of the Specified Regulated Entity or an individual beneficial owner of a customer of the foreign office of the Specified

² For the avoidance of doubt, the Specified Regulated Entity shall continue to comply with all the requirements set out in the relevant AML/CFT Notice applicable to the Specified Regulated Entity, including, but not limited to, requirements relating to group policy on AML/CFT.

Regulated Entity, without the respective individual's consent.