

Notice No : SFA 04-N21 (Amendment) 2023

Issue Date : 21 June 2023

NOTICE ON BUSINESS CONDUCT REQUIREMENTS FOR CORPORATE FINANCE ADVISERS

Introduction

- 1 For presentational purposes, the amendments in this document are compared against the version of MAS Notice No. SFA 04-N21 issued on 23 February 2023.
- 2 This document shall be interpreted as follows:
 - (a) Text which is coloured and struck through represents deletion which will not appear on the untracked version of MAS Notice No. SFA 04-N21 revised on 21 June 2023, which is published on MAS' website www.mas.gov.sg (the "Published Version"); and
 - (b) Text which is coloured and underlined represents insertion which will appear in the Published Version.
- 3 The amendments reflected in this document shall take effect on 1 October 2023.
- 4 This document is to be used for reference only. In the event of discrepancies between the amendments in this document and the Published Version, the Published Version shall prevail.

Notice No. : SFA 04-N21

Issue Date : 23 February 2023 (last updated on 21 June 2023)

NOTICE ON BUSINESS CONDUCT REQUIREMENTS FOR CORPORATE FINANCE ADVISERS

INTRODUCTION

1 This Notice is issued pursuant to section 101 of the Securities and Futures Act 2001 (the “Act”) and applies to holders of a capital markets services licence to advise on corporate finance and persons exempted from holding a capital markets services licence under section 99(1)(a), (b) or (c) of the Act in respect of advising on corporate finance (each a “corporate finance adviser”), and their representatives in respect of advising on corporate finance (each a “CFA representative”).

2 Part 1 of this Notice applies when a corporate finance adviser advises on corporate finance, where such advice is given under any engagement to advise on corporate finance entered into by the corporate finance adviser on or after 1 October 2023.

3 Part 2 of this Notice additionally applies in the following contexts:

(a) paragraph 19 applies when a corporate finance adviser advises on corporate finance, other than —

(i) advising another person concerning the arrangement, reconstruction or take-over of a corporation or any of the corporation’s assets or liabilities, provided that:

(A) such advice is not specifically given for the making of any offer of ~~shares, units in a business trust or units in a collective investment scheme constituted as a trust~~ specified products to the public (by the person); ~~or~~ and

(B) where the person is listed on an ~~approved exchange~~ Specified Approved Exchange, such advice is not circulated to the shareholders of the person, or otherwise made known to the public; or

(ii) advising concerning any offer of specified products made only to persons who are accredited investors, expert investors or institutional investors,

where such advice is given under any engagement to advise on corporate finance entered into by the corporate finance adviser on or after 1 October 2023; and

(b) the rest of Part 2 applies when a corporate finance adviser advises on corporate finance in the capacity of an issue manager, sponsor or financial adviser (as the case may be) on —

(i) an initial public offer of shares, units in a business trust or units in a collective investment scheme constituted as a trust to be listed for quotation on a Specified Approved Exchange;

(ii) a reverse takeover entered or to be entered into by an entity listed on a Specified Approved Exchange, or a trustee manager on behalf of a business trust listed on a Specified Approved Exchange, or a trustee on behalf of a collective investment scheme constituted as a trust listed on a Specified Approved Exchange; or

(iii) a business combination entered into or to be entered into by a SPAC listed on a Specified Approved Exchange,

where such advice is given under any engagement to advise on corporate finance entered into by the corporate finance adviser on or after 1 October 2023.

[SFA 04-N21 (Amendment) 2023]

Definitions

4 For the purposes of this Notice –

“business combination” means the initial acquisition of operating business or asset by a SPAC through a merger, share exchange, asset acquisition, share

purchase, reorganisation, or other method, in accordance with the business strategy and acquisition mandate disclosed in the prospectus issued in relation to the initial public offer of shares in the SPAC;

“Catalist Rules” means the rules that govern the activities and conduct of entities listed on the Catalist Board of the Specified Approved Exchange;

“controlling shareholder”, in relation to a corporation, means –

(a) for the purposes of Part 1 of this Notice, a person who alone or together with any connected person –

(i) holds, directly or indirectly, 20% or more of the issued share capital of the corporation; or

(ii) control, directly or indirectly, 20% or more of the voting power in the corporation; and

(b) for the purposes of Part 2 of this Notice, a person who –

(i) holds, directly or indirectly, 15% or more of the voting power in the corporation; or

(ii) in fact exercises control over the corporation,

where a reference to the voting power in a corporation is a reference to the total number of votes that may be cast in a general meeting of the corporation;

“controlling unitholder”, in relation to a business trust or a collective investment scheme constituted as a trust, means a person who –

(a) holds, directly or indirectly, 15% or more of the voting power in the business trust or collective investment scheme; or

(b) in fact exercises control over the business trust or collective investment scheme,

where a reference to the voting power in a business trust or collective investment scheme is a reference to the total number of votes that may be cast in a general meeting of the business trust or collective investment scheme;

“expert” has the meaning given by section 4(1) of the Companies Act 1967;

“key executive” —

- (a) in relation to a listing applicant which is a collective investment scheme constituted as a trust, has the meaning given by regulation 2(1) of the Securities and Futures (Offers of Investments) (Collective Investment Schemes) Regulations 2005; and
- (b) in relation to any other listing applicant, has the meaning given by paragraph 1 of the Fourth Schedule to the Securities and Futures (Offers of Investments) (Securities and Securities-based Derivatives Contracts) Regulations 2018;

“listing applicant” means —

- (a) a business trust or a collective investment scheme constituted as a trust —
 - (i) whose units are the subject of an application for listing on the Specified Approved Exchange; or
 - (ii) whose units are listed on a Specified Approved Exchange, and on whose behalf an application to enter into a reverse takeover has been made; or
- (b) any entity —
 - (i) whose shares are the subject of an application for listing on the Specified Approved Exchange; or
 - (ii) who is listed on a Specified Approved Exchange and is applying to enter into a reverse takeover or a business combination;

“listing application” means the application submitted to a Specified Approved Exchange by or on behalf of the listing applicant to the Specified Approved Exchange for —

- (a) listing on the Specified Approved Exchange;
- (b) entering into a reverse takeover; or
- (c) entering into a business combination;

“listing group entity” —

- (a) in relation to a listing applicant which is a business trust or a collective investment scheme constituted as a trust, means any special purpose entity that holds assets on behalf of the listing applicant or that the listing applicant exercises control over; and
- (b) in relation to any other listing applicant, means any subsidiary of the listing applicant or any other entity that the listing applicant exercises control over;

“listing rules” means the Mainboard Rules or the Catalist Rules;

“Mainboard Rules” means the rules that govern the activities and conduct of entities or trusts listed on the Mainboard of the Specified Approved Exchange;

“relevant director”, in relation to a corporate finance adviser, means a director of the corporate finance adviser who exercises supervisory oversight over its business in advising on corporate finance;

“reverse takeover” means a transaction that is classified as a reverse takeover under Rule 1015(1) of the Mainboard Rules or Rule 1015(1) of the Catalist Rules, as may be modified from time to time;

“senior management” in relation to a corporate finance adviser, means a person or persons who is or are employed by, or acting for or by arrangement with, the corporate finance adviser, and who is or are principally responsible for the day-to-day management of the corporate finance adviser’s business in advising on corporate finance;

“SPAC” or “special purpose acquisition company” means a company which has no prior operating history, operating and revenue-generating business or asset at the point of the initial public offer of its shares, and which raises proceeds for the sole purpose of undertaking a business combination;

“Specified Approved Exchange” means the Singapore Exchange Securities Trading Limited;

“specified personnel”, means an employee of the corporate finance adviser (other than a CFA representative) who carries out activities connected with advising on corporate finance for a transaction;

“third party service provider” means a service provider who is engaged by a corporate finance adviser and performs due diligence work for or on behalf of the corporate finance adviser; and

“transaction team” in relation to a transaction, means the representatives of a corporate finance adviser who advise on corporate finance on behalf of the corporate finance adviser in relation to the transaction.

5 The expressions used in this Notice, except where defined in this Notice or where the context otherwise requires, have the meanings given by section 2 of the Act.

Implementation of the Notice

6 A corporate finance adviser must —

- (a) develop and implement policies, procedures and controls to meet all the requirements of this Notice;
- (b) monitor the implementation of the policies, procedures and controls mentioned in sub-paragraph (a); and
- (c) periodically consider the need to enhance these policies, procedures and controls and, where necessary, undertake such enhancement.

7 A corporate finance adviser must prepare and maintain records of all data, documents and information that are necessary to meet the requirements under this Notice and, subject to paragraph 8, retain such records for a period of at least 5 years.

8 Where the records mentioned in paragraph 7 relate to a transaction, the records must be retained by the corporate finance adviser for a period of at least 5 years from the date that the transaction was completed, terminated or otherwise concluded.

PART 1 – GENERAL REQUIREMENTS

Managing Conflicts of Interest

9 A corporate finance adviser, when giving advice on corporate finance to a customer, must —

- (a) identify and mitigate any potential or actual material conflict between its interests and the interests of the customer; and
- (b) disclose, to the extent appropriate, any such conflict to the customer.

10 For the purpose of paragraph 9, a reference to the corporate finance adviser's interests includes any interest arising from an existing relationship between its customer and any of the following persons:

- (a) the corporate finance adviser;
- (b) its related corporation;
- (c) its controlling shareholder;
- (d) its relevant director, CFA representative or specified personnel;
- (e) a connected person of an individual mentioned in sub-paragraph (d).

11 Where a corporate finance adviser is not reasonably satisfied that it is able to mitigate any material conflict of interest, it must —

- (a) in the case of a new engagement, decline to accept the new engagement;
or
- (b) in the case of a transaction for which it is already engaged, cease to give advice on corporate finance.

12 Where a corporate finance adviser conducts other activities in relation to the offering process or the capital markets products offered (for example, allocation of the product offered, issuance of research report on the product offered), it must identify and mitigate any potential or actual conflicts of interest arising from its involvement in that other activity and its business in advising on corporate finance.

13 A corporate finance adviser must have in place policies, procedures, and controls to safeguard the confidentiality of confidential or price sensitive information received by –

- (a) its relevant directors, CFA representatives and specified personnel; and
- (b) experts and third party service providers engaged by the corporate finance adviser for any transaction which the corporate finance adviser is advising on.

14 The policies, procedures and controls mentioned in paragraph 13 must cover at least the following:

- (a) segregation of work premises between its CFA representatives and any persons not mentioned in paragraph 13(a);
- (b) segregation of work premises, where appropriate, between (i) its relevant directors or specified personnel, and (ii) any persons not mentioned in paragraph 13(a);
- (c) separation of (i) roles involving the giving of advice on corporate finance and (ii) other activities; and
- (d) restriction of access to confidential or price sensitive information on a need-to-know basis.

15 A corporate finance adviser must have in place policies, procedures, and controls to restrict and monitor dealing in capital markets products by its relevant directors, CFA representatives and specified personnel for their own account –

- (a) where such relevant director, CFA representative or specified personnel possesses price sensitive or other confidential information relating to such capital markets products arising from their giving of advice on corporate

finance to a customer or carrying out activities connected with advising on corporate finance for a transaction; or

- (b) where such dealing is in conflict with the giving of advice on corporate finance by the corporate finance adviser to a customer.

Governance and Supervision

16 The corporate finance adviser must —

- (a) ensure adequate oversight by its senior management of its business in advising on corporate finance, including but not limited to the acceptance of an engagement to act as a corporate finance adviser and the appointment of the transaction team, and any subsequent changes to such appointment;
- (b) ensure adequate supervision and management of its CFA representatives; and
- (c) set out clear and effective reporting lines for escalation of material issues to senior management by its CFA representatives.

17 Taking into consideration the nature, scale and complexity of each transaction, a corporate finance adviser must ensure that the CFA representatives in the transaction team, advising on a transaction, collectively possess the appropriate knowledge, skills and experience to advise on corporate finance for that transaction.

PART 2 – DUE DILIGENCE REQUIREMENTS

Interpretation of this Part

18 For the purposes of this Part, where the listing application is for entering into a reverse takeover or a business combination —

- (a) a reference to the suitability of a listing applicant for listing is to the suitability of the enlarged entity comprising the listing applicant and any proposed asset or business to be acquired (“enlarged entity”), for listing;
- (b) a reference to a listing applicant’s admission to the Specified Approved Exchange is to the approval, by the Specified Approved Exchange, of the

application to acquire any proposed asset or business that will result in a reverse takeover or business combination (as the case may be);

- (c) a reference to a listing applicant's activities, business, financial position or prospects is to the activities, business, financial position or prospects of the enlarged entity; and
- (d) a reference to the controlling shareholders, directors and key executives of the listing applicant is to be construed, in the case of a reverse takeover or business combination, as a reference to the individuals who are to be the controlling shareholders, directors and key executives of the listing applicant upon the acquisition of the proposed asset or business.

Due Diligence for Transactions Generally

19 A corporate finance adviser must conduct due diligence with reasonable care, skill and diligence, including in the following areas:

- (a) determining the nature and extent of due diligence work to be performed for a transaction;
- (b) making an assessment of the accuracy and completeness of material statements, confirmations, and representations made or other information given, by its customer or other persons in connection with a transaction (collectively, the "Information") and conducting appropriate verification of such Information; and
- (c) monitoring, during the transaction, other information obtained and developments in relation to the customer or transaction, that contradict or bring into question the reliability of the Information.

Advising the Listing Applicant on Regulatory Requirements

20 A corporate finance adviser must ensure —

- (a) where the listing applicant is a business trust or a collective investment scheme constituted as a trust — its trustee-manager or manager, respectively, and directors of the trustee-manager or manager; or
- (b) in other cases — the listing applicant and its directors,

are informed of their duties and responsibilities under the Act and the listing rules, relevant to its listing application and to its continuing obligations after admission to the Specified Approved Exchange.

Due Diligence and Senior Management Oversight for Listing Applications

21 A corporate finance adviser must assess and have reasonable grounds to be satisfied that a listing applicant is suitable for listing, taking into account any material issues identified as relevant for the assessment.

22 A corporate finance adviser must ensure that there is adequate supervision by senior management on the formulation and the implementation of any due diligence plan proposed by the transaction team (including any material departures from such due diligence plan).

23 Without prejudice to the requirements set out in paragraph 19 and subject to paragraph 24, a corporate finance adviser must, at a minimum, in performing due diligence —

- (a) verify material representations—
 - (i) where the listing applicant is a business trust or a collective investment scheme constituted as a trust, made by its trustee-manager or manager, respectively, with —
 - (A) relevant persons of appropriate authority or with appropriate knowledge of the listing applicant and the trustee-manager or manager; or
 - (B) other credible sources; or
 - (ii) in any other case, made by the listing applicant, with —
 - (A) relevant persons of appropriate authority or with appropriate knowledge of the listing applicant; or
 - (B) other credible sources;
- (b) conduct background checks on —
 - (i) where the listing applicant is a business trust or a collective investment scheme constituted as a trust — the listing applicant, its

listing group entities, its controlling unitholders, its trustee-manager or manager (as the case may be), its key executives, and the directors and controlling shareholders of the trustee-manager or manager; or

- (ii) in any other case — the listing applicant, its listing group entities, its key executives, its directors, and its controlling shareholders;
- (c) monitor, during the course of the transaction, any material developments related to the transaction or listing applicant, and assess the impact of such information on the suitability of the listing applicant for listing;
- (d) inspect key physical assets, and interview major business customers and other stakeholders (for example, key suppliers, creditors, counterparties or bankers); and
- (e) where material issues are involved,
 - (i) review relevant underlying records and supporting documents (for example, invoices, contracts signed with key customers, financial statements, title deeds and regulatory approvals); and
 - (ii) obtain additional information from third-party sources (for example, public records or other databases) or appoint third parties to perform relevant checks, where appropriate.

24 Where there are extenuating circumstances, which prevent a corporate finance adviser from performing any of the due diligence procedures required under paragraph 23, the corporate finance adviser must —

- (a) take mitigating measures to address all associated risks; and
- (b) document its reasons (with supporting documents, where appropriate) for not performing that due diligence procedure and the mitigating measures taken to address the risks.

25 A transaction team appointed by a corporate finance adviser to advise on a listing application must identify and escalate reportable matters in relation to the listing application to the senior management of the corporate finance adviser.

26 A corporate finance adviser must ensure that its senior management —

- (a) reviews and approves —
 - (i) the resolution of reportable matters mentioned in paragraph 25; and
 - (ii) the material conclusions from the due diligence performed by the transaction team for the listing application,
after examining the bases of all opinions, assurances and conclusions arrived at by the transaction team, which have a material bearing on the suitability of the listing applicant for listing; and
- (b) has the appropriate seniority, knowledge, skills, and experience to carry on the review mentioned in sub-paragraph (a).

27 For the purposes of paragraphs 25 and 26, reportable matters refer to material issues relating to non-compliance with the Act, this Notice, listing rules and other relevant legal and regulatory requirements, extenuating circumstances mentioned in paragraph 24, conflicting information from a customer or other persons, suspicious circumstances, difficult or sensitive issues, or any other material issues that may be prejudicial to the transaction.

28 Where a corporate finance adviser engages a third party service provider to perform any due diligence work, the corporate finance adviser must satisfy itself that it may reasonably rely on the due diligence performed by the third party service provider.

- 29 Without limiting paragraph 28, the corporate finance adviser must —
- (a) assess independently whether the third party service provider has the necessary knowledge, skills, experience and resources for the work to be performed;
 - (b) clearly set out and assess the scope and extent of the work to be performed by the third party service provider;
 - (c) assess independently the results of the due diligence performed by the third party service provider to determine whether further due diligence is required; and

- (d) assess independently whether there are material issues, disclosed in the results of the due diligence work, which should be set out in the listing application.

30 Where a corporate finance adviser receives or is made aware of any allegation or complaint against —

- (a) where the listing applicant is a business trust or a collective investment scheme constituted as a trust — the listing applicant, its controlling unitholder, its trustee-manager or manager (as the case may be), its key executive, or a director or controlling shareholder of the trustee-manager or manager; or
- (b) in other cases — the listing applicant, its key executive, its director, or its controlling shareholder,

the corporate finance adviser must assess whether the allegation or complaint has a material bearing on the accuracy or adequacy of information provided by the trustee-manager, the manager or the listing applicant (as the case may be) or affect the suitability of the listing applicant for listing and, where it does, independently investigate such allegation or complaint.

Relying on Experts

31 A corporate finance adviser must have reasonable grounds to be satisfied with —

- (a) the knowledge, skills and experience;
- (b) the qualifications; and
- (c) the independence,

of any expert appointed by the listing applicant (or where the listing applicant is a business trust or a collective investment scheme constituted as a trust, its trustee-manager or manager respectively) for the purposes of providing an expert's opinion in connection with the listing application.

32 The corporate finance adviser must —

- (a) consider whether the scope of work to be undertaken by an expert mentioned in paragraph 31 and the resources to be applied by the expert

to the engagement are appropriate to achieve the objective of the expert's engagement (to the extent a reasonable non-expert could make such an assessment); and

- (b) propose to the customer additional services or due diligence where the corporate finance adviser is of the view that it is necessary in a particular case.

33 A corporate finance adviser must satisfy itself that its reliance on the conclusions or opinions of any report prepared by an expert mentioned in paragraph 31 is reasonable.

34 Without prejudice to the generality of paragraph 33, a corporate finance adviser must, in relation to the report mentioned in paragraph 33 —

- (a) review the report critically (to the extent a non-expert could make such an assessment), and compare the information in the report against the entirety of all other information known to the corporate finance adviser obtained through due diligence and its own knowledge of and experience with —
 - (i) where the listing applicant is a business trust or a collective investment scheme constituted as a trust — the listing applicant, its controlling unitholders, its trustee-manager or manager (as the case may be) its key executives, and the directors and controlling shareholders of the trustee-manager or manager;
 - (ii) in any other case — the listing applicant, its key executives, its directors, and its controlling shareholders;
- (b) where there are any material discrepancies within the report, or between the report and other information known to the corporate finance adviser, including any material omissions, conduct follow-up investigation, including, where necessary, engaging an independent party to conduct a review of the report and the information known to the corporate finance adviser to assess whether the information in the expert report can be relied upon and should be incorporated in the listing application; and
- (c) assess (to the extent a non-expert could make such an assessment) whether material bases, assumptions and qualifications (such as

significant accounting policies and estimates in the case of financial information) in the report are fair, reasonable and complete.

Admission of the Listing Applicant

35 Prior to the submission of the listing application and before the listing applicant's admission to the Specified Approved Exchange, a corporate finance adviser must have reasonable grounds to be satisfied —

- (a) that all material issues identified by the due diligence performed have been, or will prior to the listing applicant's admission to the Specified Approved Exchange be, satisfactorily resolved or clearly disclosed in the listing application or the prospectus;
- (b) with the completeness of information in the listing application (including that all material issues raised from the due diligence performed are disclosed in the listing application);
- (c) that the listing applicant is compliant with the listing rules relevant to its listing application;
- (d) that the listing applicant (or where the listing applicant is a business trust or a collective investment scheme constituted as a trust, its trustee-manager or manager, respectively) has established procedures, systems and controls (including accounting and management systems) which, at the point of listing application and on an ongoing basis thereafter —
 - (i) enable the listing applicant, and the directors of the listing applicant (or where the listing applicant is a business trust or a collective investment scheme constituted as a trust, the directors of its trustee-manager or manager respectively) to comply with the listing rules and other relevant legal and regulatory requirements applicable to the activities of the listing applicant; and
 - (ii) provide a reasonable basis for the directors of the listing applicant (or where the listing applicant is a business trust or a collective investment scheme constituted as a trust, the directors of its trustee-manager or manager, respectively) to make a proper assessment of the financial position and prospects of the listing applicant; and
- (e) that the directors of the listing applicant (or where the listing applicant is a business trust or a collective investment scheme constituted as a trust,

the directors of its trustee-manager or manager, respectively) collectively have the experience and qualifications to —

- (i) manage the listing applicant's business; and
 - (ii) ensure the listing applicant complies with its obligations under the listing rules and other relevant legal and regulatory requirements applicable to the activities of the listing applicant; and
- (f) that each director of the listing applicant understands and is competent to discharge his director's obligations under the listing rules.

Effective Date

36 This Notice shall take effect on 1 October 2023.

*Notes on History of Amendments:

1. SFA 04-N21 (Amendment) 2023 with effect from 1 October 2023