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SECURITIES AND FUTURES ACT
(CHAPTER 289, SECTION 341)

SECURITIES AND FUTURES (EXEMPTION FROM REQUIREMENTS) (CROSS-
BORDER ARRANGEMENTS) (FOREIGN OFFICES) REGULATIONS

In exercise of the powers conferred by section 341(1) of the Securities and Futures Act, the Monetary Authority of Singapore makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Securities and Futures (Exemption from Requirements) (Cross-Border Arrangements) (Foreign Offices) Regulations and come into operation on 9 October 2021.

Definitions

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

“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;

“block futures contract” has the same meaning as in paragraph 1 of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations;

“cross-border arrangement”, in respect of a specified holder of a capital markets services licence or a specified exempt person, means the policies and procedures

of the specified holder of a capital markets services licence or the specified exempt person, by which its foreign office carries on business in any of the following activities in Singapore —

- (a) in the case of a specified holder of a capital markets services licence for any regulated activity other than dealing in capital markets products, the regulated activity that the holder is licensed to provide under the capital markets services licence;
- (b) in the case of a specified holder of a capital markets services licence for dealing in capital markets products —
 - (i) dealing in capital markets products, in respect of the type or types of capital markets products that the holder may carry on a business in dealing in capital markets products under the capital markets services licence; and
 - (ii) product financing or providing custodial services, in respect of the type or types of capital markets products that the holder may carry on a business in dealing in capital markets products under the capital markets services licence;
- (c) in the case of a specified exempt person who is exempt from the requirement to hold a capital markets services licence for any regulated activity other than dealing in capital markets products, the regulated activity that the specified exempt person carries on business in, in reliance on the exemption;
- (d) in the case of a specified exempt person who is exempt from the requirement to hold a capital markets services licence for dealing in capital markets products (called in this definition a relevant exemption) —
 - (i) dealing in capital markets products, in respect of the type or types of capital markets products that the specified exempt person is carrying on business in, in reliance on the relevant exemption; and
 - (ii) product financing or providing custodial services, in respect of the type or types of capital markets products which the specified exempt

person is carrying on business in dealing in capital markets products,
in reliance on the relevant exemption;

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

“foreign office”, in respect of a specified holder of a capital markets services licence or a specified exempt person, means an office or branch of the specified holder of a capital markets services licence or the specified exempt person (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 specified holder of a capital markets services licence or a specified exempt person, means a representative of the specified holder of a capital markets services licence or the specified exempt person, who is —

- (a) ordinarily resident outside Singapore;
- (b) not an appointed, provisional or temporary representative of any principal; and
- (c) carries out for the specified holder of a capital markets services licence or the specified exempt person, any regulated activity conducted by its foreign office under a cross-border arrangement;

“OTC derivatives contract” has the same meaning as in regulation 2 of the Securities and Futures (Licensing and Conduct of Business) Regulations;

“specified exempt person” means a person exempted from the requirement to hold a capital markets services licence under —

- (a) section 99(1)(a), (b), (c), or (d) of the Act;
- (b) paragraph 3(1)(d) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations; or
- (c) paragraph 3A(1)(d) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations;

“specified holder of a capital markets services licence” means a holder of a capital markets services licence, other than a holder who does not carry on business in any regulated activity other than the management of portfolios of specified products on behalf of venture capital funds;

“specified FX contracts” has the same meaning as in regulation 56 of the Securities and Futures (Licensing and Conduct of Business) Regulations;

“specified OTC derivatives contract” has the same meaning as in regulation 2 of the Securities and Futures (Licensing and Conduct of Business) Regulations; and

“venture capital fund” has the same meaning as in regulation 14(8) of the Securities and Futures (Licensing and Conduct of Business) Regulations.

Exemption for foreign offices of specified holders of a capital markets services licence or specified exempt persons carrying on business in regulated activities under a cross-border arrangement

3.—(1) Subject to regulation 5, a specified exempt person who is exempted from the requirement to hold a capital markets services licence under section 99(1)(a), (b) or (c) of the Act is exempt from —

- (a) section 99B(3) of the Act and regulations 54(1) and 54B(1) of the Securities and Futures (Licensing and Conduct of Business) Regulations, in respect of any business in a regulated activity conducted by its foreign office under a cross-border arrangement; and
- (b) regulation 14(4) of the Securities and Futures (Licensing and Conduct of Business) Regulations, in respect of any business in product financing and providing custodial services conducted by its foreign office under a cross-border arrangement.

(2) Subject to regulation 5, a specified exempt person who is exempted from the requirement to hold a capital markets services licence under section 99(1)(d) of the Act is exempt from section 99B(3) of the Act, in respect of any business in a regulated activity conducted by its foreign office under a cross-border arrangement.

(3) Subject to regulation 5, a specified exempt person who is exempted from the requirement to hold a capital markets services licence under paragraph 3(1)(d) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations is exempt from sections 82(1) and 99A of the Act, in respect of any business in dealing in capital markets products that are block futures contracts conducted by its foreign office under a cross-border arrangement.

(4) Subject to regulation 5, a specified exempt person who is exempted from the requirement to hold a capital markets services licence under paragraph 3A(1)(d) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations is exempt from sections 82(1) and 99A of the Act, in respect of —

- (a) any business in dealing in capital markets products that are OTC derivatives contracts; and
- (b) any business in product financing and providing custodial services, in relation to OTC derivatives contracts that are specified products, conducted by its foreign office under a cross-border arrangement.

(5) Subject to regulation 5, a specified holder of a capital markets services licence is exempt from —

- (a) section 99B(3) of the Act and Division 2 of Part V of the Act and Parts III and IV (other than regulation 43) of the Securities and Futures (Licensing and Conduct of Business) Regulations, in respect of any business in a regulated activity conducted by its foreign office under a cross-border arrangement;
- (b) regulation 13B of the Securities and Futures (Licensing and Conduct of Business) Regulations, in respect of any business in fund management conducted by its foreign office under a cross-border arrangement; and
- (c) section 82(1) of the Act, in respect of any business in product financing and providing custodial services conducted by its foreign office under a cross-border arrangement.

Exemption for foreign representatives carrying on business in regulated activities under a cross-border arrangement

4.—(1) A foreign representative of a specified exempt person who is exempted under regulation 3(1) is exempted from:

- (a) section 99B(1) of the Act, when acting as a representative in respect of any business in a regulated activity other than product financing and providing custodial services, conducted by the foreign office of the specified exempt person under a cross-border arrangement; and
- (b) regulations 14(4A), 44, 47 of the Securities and Futures (Licensing and Conduct of Business) Regulations, when acting as a representative in respect of any business in a regulated activity conducted by the foreign office of the specified exempt person under a cross-border arrangement.

(2) A foreign representative of a specified exempt person who is exempted under regulation 3(2) is exempt from section 99B(1) of the Act and regulation 14(4A) of the Securities and Futures (Licensing and Conduct of Business) Regulations, when acting

as a representative in respect of any business in a regulated activity conducted by the foreign office of the specified exempt person under a cross-border arrangement.

(3) A foreign representative of a specified exempt person who is exempted under regulations 3(3) and 3(4) is exempt from section 99A of the Act, when acting as a representative in respect of any business in a regulated activity conducted by the foreign office of the specified exempt person under a cross-border arrangement.

(4) A foreign representative of a specified holder of a capital markets services licence who is exempted under regulation 3(5) is exempt from:

- (a) section 99B(1) of the Act, when acting as a representative in respect of any business in a regulated activity other than product financing and providing custodial services, conducted by the foreign office of the specified holder of a capital markets services licence under a cross-border arrangement; and
- (b) regulations 4, 44, 47 of the Securities and Futures (Licensing and Conduct of Business) Regulations.

Scope of exemptions under regulation 3

5.—(1) The exemptions under regulation 3 only apply if —

- (a) the specified holder of a capital markets services licence or the specified exempt person is subject to regulatory oversight by a foreign regulatory authority in a foreign jurisdiction in respect of the activities of its foreign office under the cross-border arrangement;
- (b) the specified holder of a capital markets services licence or the specified exempt person 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 specified holder of a capital markets services licence or the specified exempt person carries on business in the regulated activity mentioned in regulation 3 with classes of investors, that the specified holder of a capital markets services licence is restricted to under conditions or restrictions in its capital markets services licence or the specified exempt person is restricted to under conditions or restrictions imposed on the specified exempt person; and
- (e) the specified holder of a capital markets services licence or the specified exempt person does not carry on business in the regulated activity mentioned in regulation 3 with any person who is not an accredited investor, institutional investor or expert investor.

(2) Paragraph (1) does not apply if the specified holder of a capital markets services licence or the specified exempt person is a person mentioned in regulation 6(3) until the date the specified holder of a capital markets services licence or the specified exempt person (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.

Cessation of exemptions under regulation 3

6.—(1) A specified holder of a capital markets services licence or a specified exempt person, who is otherwise exempted under regulation 3, shall not be or shall cease to be so exempted, if the specified holder of a capital markets services licence or the specified exempt person does not lodge with the Authority a notice of the cross-border arrangement in a form to be specified by the Authority:

- (a) within 14 days from the date that the specified holder or specified exempt person commences business in a regulated activity under the cross-border arrangement in reliance on the exemptions under regulation 3; or
- (b) in the case of a person mentioned in paragraph (3), on or before 8 April 2022.

(2) A person who acts as a foreign representative of a specified holder of a capital markets services licence or a specified exempt person, who is otherwise exempted under regulation 4, shall not be or shall cease to be so exempted, if the exemption granted to the specified holder of a capital markets services licence or the specified exempt person ceases in accordance with paragraph (1).

(3) The following persons are mentioned for the purposes of paragraph (1)(b):

- (a) a specified exempt person exempted from the requirement to hold a capital markets services licence under section 99(1)(a) or (b) of the Act whose foreign office was, immediately before 9 October 2021, carrying on business in dealing in specified OTC derivatives contracts or specified FX contracts under a cross-border arrangement in reliance on the exemption under regulation 60(1) of the Securities and Futures (Licensing and Conduct of Business) Regulations;
- (b) a specified exempt person exempted from the requirement to hold a capital markets services licence under section 99(1)(c) of the Act whose foreign office was, immediately before 9 October 2021, carrying on business in dealing in specified OTC derivatives contracts under a cross-border arrangement in reliance on the exemption under regulation 60(2) of the Securities and Futures (Licensing and Conduct of Business) Regulations;
- (c) a specified holder of a capital markets services licence whose foreign office was, immediately before 9 October 2021, carrying on business in dealing in specified OTC derivatives contracts under a cross-border

arrangement in reliance on the exemption under regulation 61(1) of the Securities and Futures (Licensing and Conduct of Business) Regulations.