

MAS Notice No.: XXX

Issue Date: XXX

NOTICE ON REQUIREMENTS IN RELATION TO CROSS-BORDER ARRANGEMENTS UNDER THE FINANCIAL ADVISERS (EXEMPTION FROM REQUIREMENTS) (CROSS-BORDER ARRANGEMENTS) (FOREIGN OFFICES) REGULATIONS

1. INTRODUCTION

- 1.1. This Notice is issued pursuant to section 58 of the Financial Advisers Act (Cap. 110) (“FAA”) and applies to all licensed financial advisers and specified exempt financial advisers as defined under regulation 2 of the Financial Advisers (Exemption from Requirements) (Cross-Border Arrangements) (Foreign Offices) Regulations (“FA(E)(CBA)(FO)R”) in relation to their cross-border arrangements.

2. DEFINITIONS

- 2.1. For the purposes of this Notice:

“FAR” means Financial Advisers Regulations; and

“Specified Regulated Entity” means a licensed financial adviser or a specified exempt financial adviser.

- 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 FA(E)(CBA)(FO)R and section 2(1) of the FAA.

3. OBJECT OF NOTICE AND APPLICATION OF REQUIREMENTS UNDER PARAGRAPH 5

- 3.1. The requirements set out in this Notice serve to mitigate the risks from cross-border arrangements of Specified Regulated Entities.

- 3.2. The requirements set out in paragraph 5 below only apply to the Specified Regulated Entity from the following dates:

- (a) where paragraph 4.1 below applies, the date the Specified Regulated Entity commences business in providing a financial advisory service under a cross-border arrangement in reliance on the exemptions under regulation 3 of the FA(E)(CBA)(FO)R;

- (b) where paragraph 4.2 below applies, the date of lodgement of the notice of cross-border arrangement mentioned in paragraph 4.2.

4. NOTIFICATION OF CROSS-BORDER ARRANGEMENTS

- 4.1. Where a foreign office of a Specified Regulated Entity only commences a business in providing a financial advisory service under a cross-border arrangement after 8 October 2021, the Specified Regulated Entity must lodge with the Authority a notice of the cross-border arrangement in Form XX (as set out at the Authority's website at <http://www.mas.gov.sg>) not later than 14 days after the commencement of the cross-border arrangement.
- 4.2. Where a foreign office of a Specified Regulated Entity was, immediately prior to 9 October 2021, carrying on business in providing a financial advisory service under an existing cross-border arrangement in reliance on any of the exemptions mentioned under regulation 6(3) of the FA(E)(CBA)(FO)R, and intends to continue carrying on business under the cross-border arrangement in reliance on the exemptions under the FA(E)(CBA)(FO)R after 8 October 2021, the Specified Regulated Entity must lodge with the Authority a notice of the cross-border arrangement in Form XX (as set out at the Authority's website at <http://www.mas.gov.sg>) not later than 8 April 2022.

5. ONGOING REQUIREMENTS IN RELATION TO CROSS-BORDER ARRANGEMENT

5.1. Internal Controls over Cross-Border Arrangement

5.1.1. The Specified Regulated Entity must:

- (a) keep or cause to be kept in or outside Singapore, the following records in relation to the cross-border arrangement:
 - (i) records of customers of the Specified Regulated Entity with respect to business conducted by its foreign office under the cross-border arrangement;
 - (ii) records of financial advisory services provided by the Specified Regulated Entity through its foreign office to its customers under the cross-border arrangement; and
 - (iii) copies of contracts or agreements entered into by the Specified Regulated Entity through its foreign office with its customers in relation to the provision of financial advisory service provided under the cross-border arrangement;
- (b) keep or cause to be kept in Singapore, a register of its foreign representatives containing the following information:

- (i) the name of the foreign representative and the foreign office that the foreign representative is acting for;
 - (ii) the date(s) of any visit to Singapore by a foreign representative; and
 - (iii) the purpose of any such visit and details and description of any activities conducted by the foreign representative during the visit;
- (c) ensure that there are written policies and procedures governing the cross-border arrangement, including but not limited to the following:
- (i) the solicitation of customers in Singapore by foreign representatives; and
 - (ii) the handling of complaints filed against foreign representatives; and
- (d) ensure the maintenance of the written policies and procedures mentioned under sub-paragraph (c), whether in or outside Singapore.

5.1.2. The Specified Regulated Entity must provide the Authority with any of the documents mentioned in paragraph 5.1.1(a) to (c) and where applicable, the translation of such documents in the English language, upon the Authority's written request.

5.2. **Reporting and Notification Requirements**

5.2.1. A Specified Regulated Entity must lodge with the Authority —

- (a) a notice of change in particulars in Form YY (as set out at the Authority's website at <http://www.mas.gov.sg>) providing any change in particulars provided in the notice under paragraph 4, not later than 14 days after the date of the change;
- (b) a notice of cessation of a cross-border arrangement in Form YY (as set out at the Authority's website at <http://www.mas.gov.sg>), not later than 14 days after the date of cessation of the cross-border arrangement; and
- (c) an annual declaration in relation to its cross-border arrangement(s) in Form ZZ (as set out at the Authority's website at <http://www.mas.gov.sg>), not later than 5 months from the end of the financial year.

Note:

Under section 58(5) of the FAA, any person who fails to comply with any requirement specified in a written direction issued by the Authority shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$25,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for every day or part thereof during which the offence continues after conviction.