Frequently Asked Questions (“FAQs”) on the Notice on Business Conduct Requirements for Corporate Finance Advisers (“CF Notice”)

[Reissued on 21 August 2023]

Q1. Would the date of the signing of the engagement letter be the relevant date for determining the applicability of the CF Notice?

The CF Notice will apply to all corporate finance ("CF") advisory engagements entered into by way of a signed contractual agreement on or after 1 October 2023. CF advisers are strongly encouraged to take reference from the requirements in the CF Notice for engagements entered into before 1 October 2023 and apply the corresponding control and due diligence measures to these engagements.

Q2. Can the CF adviser rely on group-level policies and procedures to fulfil the requirements under the CF Notice?

CF advisers should assess if such group-level policies and procedures will be adequate in ensuring the CF adviser's compliance with the CF Notice requirements. Where necessary, CF advisers should implement additional measures at the local entity level for its staff to meet the requirements of the CF Notice.

Q3. What is the definition of expressions used in the Notice that are not defined in paragraph 4 of the CF Notice? For example, expressions such as specified products, related corporation and connected person.

As set out in paragraph 5 of the Notice, the expressions not defined in the CF Notice, except where the context otherwise requires, have the meanings given by section 2 of the Securities and Futures Act.

Q4. Does the CF Notice apply to the foreign related corporation ("FRC") or foreign office ("FO") that provides CF advice under a cross-border arrangement with a Singapore CF adviser that has been notified to MAS under the Exemption Framework for FRC or FO? Does the CF Notice apply to non-Singapore based individuals providing CF advice to Singapore clients?

Under a notified arrangement between a Singapore CF adviser and its FRC/FO, where the FRC/FO provides CF advice, the FRC/FO will not be subject to the Notice. Where the Singapore CF adviser also has a role in advising the same transaction, the licensed CF adviser will be subject to the CF Notice in respect of its role.

Please note that the FRC/FO is not allowed to provide CF advice on specific transactions under paragraph 5.1.1 of MAS Notice SFA04-N17 (for FRC) or SFA04-N18 (for FO), unless the specific conditions under paragraph 5.1.2 are met.

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Singapore CF advisers should assess if the overseas-based individuals are acting on their behalf or on behalf of the FRC/FO, as guided by Q5 of the Frequently Asked Questions on the Exemption Frameworks for Cross-Border Business Arrangements of Capital Markets Intermediaries involving Foreign Related Corporations and Foreign Offices. Individuals who are acting on behalf of the Singapore CF adviser should be appointed as its representatives and adhere to policies and processes put in place by the CF adviser for compliance with the CF Notice.

Q5. In the case of a FRC/FO advising a Singapore client under the Exemption Frameworks for Cross-Border Business Arrangements, for an IPO or merger and acquisition ("M&A") transaction outside Singapore, does the CF Notice apply and to what extent?

The CF adviser should assess if such an arrangement should be notified to MAS under the Exemption Frameworks. Under a notified arrangement between the CF adviser and its FRC/FO, the FRC/FO will not be subject to the Notice. Where the CF adviser also has a role in advising the same transaction, the CF adviser will be subject to the CF Notice in respect of its role.

Q6. Does the CF Notice apply when the CF adviser deploys its representatives to support a transaction taking place outside Singapore, that may not involve a Singapore client, a Singapore offering or the CF adviser itself?

The CF Notice applies when a CF adviser enters an engagement to advise on CF, whether the transaction or client is in Singapore or overseas. Representatives acting on behalf of the CF adviser should adhere to the policies and processes put in place by the CF adviser for compliance with the CF Notice.

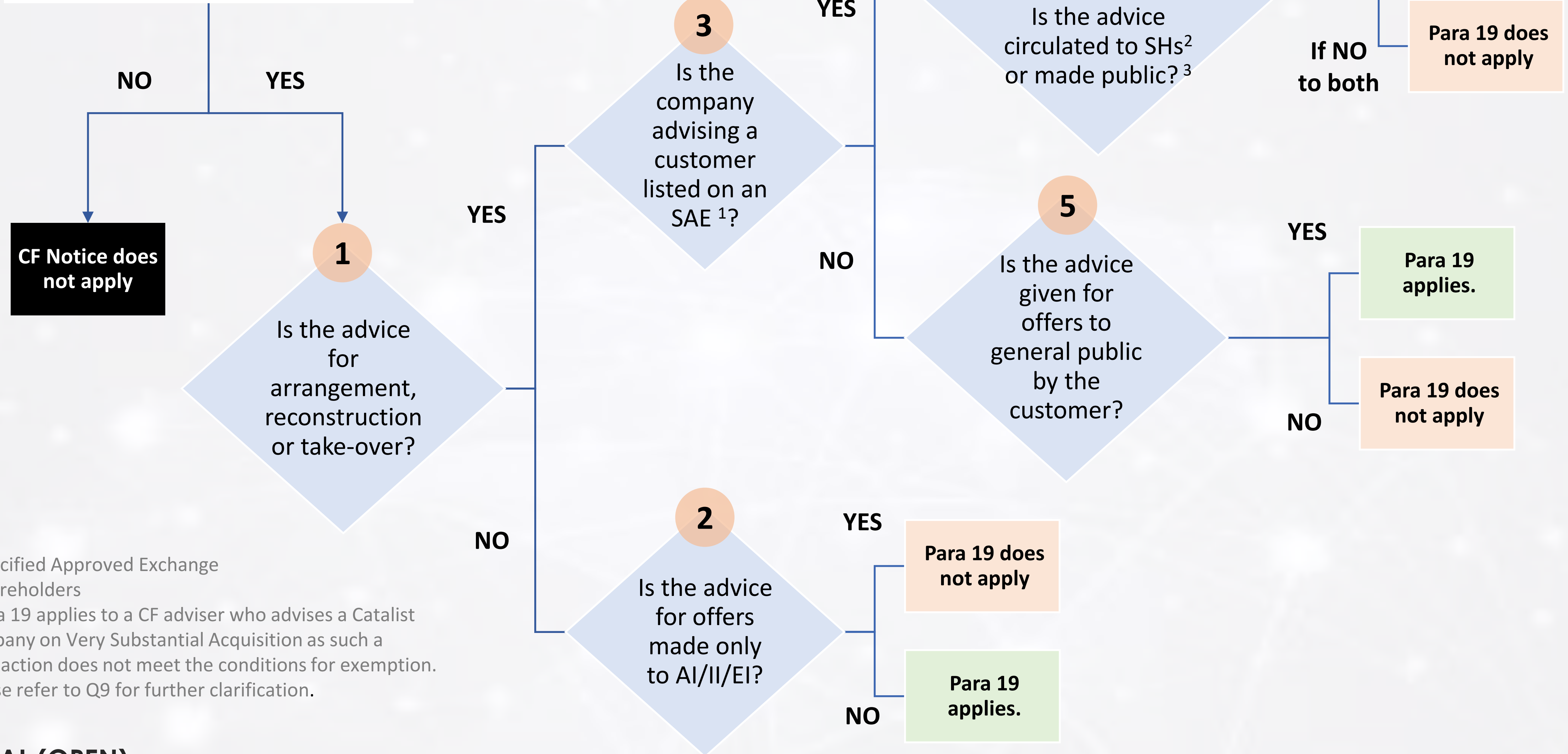
Q7. Does the CF Notice apply when the CF adviser undertakes the global coordinator or manager role of the international tranche of an IPO on an overseas exchange? Does Part 2 of the CF Notice apply only to CF advisers acting as issue managers?

As clarified in paragraph 3.12 of the Response Paper to the Consultation, the CF Notice will only apply to CF advisers in their conduct of CF advisory activities. In the scenario provided, the CF Notice will not apply if the CF adviser is acting as a coordinator or manager of a transaction so long as their activities do not constitute the regulated activity of advising on CF under the SFA.

Where the CF adviser is carrying on the regulated activity of advising on CF but not acting as an issue manager, paragraph 19 of Part 2 of the CF Notice will apply except for transactions meeting the conditions under paragraph 3(a). The rest of Part 2 of the Notice will only apply when a CF adviser acts as issue manager, sponsor or financial adviser (as the case may be) for transactions listed under paragraph 3(b) of the CF Notice.

Q8. Does the CF Notice apply when the CF adviser undertakes the role of a financial adviser for corporate actions?

If the CF adviser is providing advice on CF in its role as a financial adviser, the CF Notice applies and vice versa. For example, advising a listed company on a change of the company name or amendment to the constitution is not likely to fall within the ambit of advising on CF and the Notice will not apply.



[1] Specified Approved Exchange
[2] Shareholders
[3] Para 19 applies to a CF adviser who advises a Catalist company on Very Substantial Acquisition as such a transaction does not meet the conditions for exemption. Please refer to Q9 for further clarification.

Q9. Where a CF advisor is appointed to provide advice on corporate finance and acts as a sponsor for a Very Substantial Acquisition (“VSA”) for a company listed on the Catalist board of a Specified Approved Exchange, would the CF adviser be exempt from paragraph 19 of the CF Notice in respect of the transaction?

As the CF adviser‘s advice is circulated to the public (e.g. including an attestation that the enlarged group is suitable for continued listing, or providing a responsibility statement relating to the transaction in the shareholders’ circular), such a transaction will not meet the condition provided for in paragraph 3(a)(i)(B). The CF advisor is thus subject to paragraph 19 of the CF Notice.

Q10. In providing advice on CF to a company listed on an Specified Approved Exchange, the CF advisor is named in the relevant transaction document (e.g. shareholder circular for an M&A) as a financial advisor. Can such transactions be exempt from paragraph 19 of the Notice if the CF advisor's advice is not specifically made known to the public?

Yes, the CF advisor may rely on the exemption provided in paragraph 3(a)(i)(B) where such advice (on CF) is not circulated to the shareholders of the person, or otherwise made known to the public, and is not specifically given for the making of any offer of specified products to the public by the person.

Q11. Does paragraph 19 of the CF Notice apply if the CF adviser only provides CF advice to private or unlisted companies, where such advice is not given for an IPO, or if the CF adviser only provides CF advice to a company listed overseas?

For such engagements, whether paragraph 19 is applicable depends on whether the nature of the advice falls within any of the exemptions set out in paragraph 3(a) of the CF Notice.

As an example, paragraph 19 of the CF Notice will not apply if the CF adviser's advice to its customer (i.e. the private, unlisted or overseas company) is not specifically given for the making of any offer of specified products to the public, or if the CF adviser is advising on an offer made only to AI, EI or IIs.

Q12. Under paragraph 19 of the CF Notice, how should the CF adviser determine the nature and scope of due diligence to be conducted for transactions that do not fall under paragraph 3(b)? For example, is the engagement of appropriate professional advisers by the seller/buyer to perform the sell side/buy side due diligence a reasonable basis for the CF adviser to determine that sufficient due diligence and appropriate verification of material information has been done?

Each engagement has its specific considerations and circumstances. A CF adviser should exercise professional judgement to determine the nature & scope of due diligence that is appropriate to the nature of the transaction and the terms of the engagement.

Where third parties are engaged to undertake specific due diligence work, the CF adviser must similarly exercise professional judgement to determine whether the scope of work performed is sufficient and should be relied upon.

Q13. In managing conflict of interest ("COI"), who are the individuals captured under "specified personnel"? Are other internal stakeholders who support the investment bank considered as "specified personnel"?

Specified personnel refers to employees who are involved in activities connected with advising on CF **for a particular transaction**. These include employees who are brought over the wall to support the specific transaction (e.g. placement team), as well as legal, compliance and other personnel who support that specific transaction.

Q14. What is the expectation on managing COI of directors, representatives or specified personnel?

Examples of measures which may be taken to manage COI include:

(i) obtaining an understanding of the background of directors, representatives or specified personnel involved in the supervision or provision of CF activities to avoid putting such persons in positions of COI;

(ii) requiring directors, representatives or specified personnel declare COI that may arise during the course of undertaking their roles;

(iii) conducting a more detailed COI assessment on the transaction team prior to their involvement in a particular CF transaction.

These examples are not exhaustive, and do not change the responsibility of the board and senior management of the CF adviser to develop and implement the appropriate controls and processes to manage COI.

Q15. For the purpose of identifying conflicts of interest, can there be a knowledge qualifier in that the relevant director, CFA representative or specified personnel is aware of any potential or actual material conflict between a connected person of that said individual and the CF adviser's customer? Such a connected person may not be obliged to disclose their interests to the relevant director, CFA representative or specified personnel.

CF advisers should assess whether material COIs may arise between its customers and a connected person of its relevant director, CFA representative or specified personnel. There should be clear policies and processes requiring the relevant director, CFA representative or specified personnel to confirm that there is no material COI between persons connected to him that he is reasonably aware of.

Q16. Can we rely on the third party's professional duty of confidentiality or contractual confidentiality obligations to safeguard the confidentiality of confidential or price sensitive information received by experts and third party service providers engaged by a CF adviser?

CF advisers must restrict experts' and third party service providers' access to confidential or price sensitive information on a need-to-know basis. CF advisers can rely on the confidentiality agreement signed with the expert or third party service provider to protect the confidentiality of such information, provided that the information falls within the scope of the agreement.

Q17. On the segregation of work premises for CF representatives, would physical distancing (instead of physical segregation in a restricted access area) suffice?

The physical segregation requirement applies to individuals who are part of the CF function or department and have access to confidential or price sensitive information on CF transactions. These would include administrative staff, if any, that support the CF transaction and have access to such information.

Given that these individuals have access to confidential or price sensitive information, they should be physically segregated from other personnel within the FI to ensure that discussions and correspondence involving confidential or price sensitive information are only privy to those who have been granted access to that information (on a need-to-know basis).

As clarified in paragraph 5.23 of the Response Paper, apart from physical segregation of the work areas, there should be access controls to the confidential or price sensitive information.

Q18. On safeguarding of confidential or price sensitive information, are work from home arrangements acceptable for staff involved in advising on CF?

CF advisers may provide for work-from-home arrangements where measures are instituted to protect the confidentiality of confidential or price sensitive information of the CF transaction (e.g. by the staff to other individuals residing in the staff's residence).

As highlighted in the Information Paper on Risk Management and Operational Resilience in a Remote Working Environment, CF advisers should put in place mitigating measures to manage possible risks that may be brought about by extensive remote working arrangements.

Q19. Under paragraph 17 of the CF Notice, the CF adviser must ensure that its CF representatives collectively possess the appropriate knowledge, skills and experience to advise on a transaction. How can this be met if the transaction involves new business sectors/ technologies?

The CF adviser should consider whether there are representatives in the transaction team who have advised on similar types of CF transaction or are familiar with the specific business sector or technology. The CF adviser may, where necessary, engage other persons to supplement the experience of the transaction team in specialised or niche areas.

Q20. Can the CF adviser make reference to the ABS Listings Due Diligence Guidelines in formulating the due diligence plan under paragraph 22 of the CF Notice?

CF advisers are not precluded from making reference to the ABS Listings Due Diligence Guidelines in formulating their due diligence plans.

However, CF advisers must still exercise professional judgement in determining the nature and scope of due diligence as appropriate to the transaction, and to comply with the requirements of the CF Notice.

Q21. Can a senior management member take on the role of a reviewer for one transaction and execute another transaction as part of the transaction team?

As long as the senior management is not involved in the execution of the transaction, it can take on the role of a reviewer for that transaction, taking into consideration the pre-requisites to carry on the review under paragraph 26(b) of the CF Notice.

Q22. Must a senior management member be an appointed CF representative?

Senior management members are persons who are principally responsible for the day-to-day management of the CF business. Depending on the role of the senior management member and the set up for each CF adviser, the senior management member may not necessarily be an appointed CFA representative. The senior management member should be appointed as a CF representative if he carries out the regulated activity of advising on CF.

Q23. Can the senior management team or members delegate their responsibilities? For example, a transaction committee performs the role of reviewing and approving a transaction on behalf of senior management.

As clarified in paragraph 5.30 of the Response Paper, senior management may delegate their duties where such delegation is reasonable, and to persons with the necessary capacity, competence, knowledge, skill and authority. Delegation may be made to a specific individual or a group of individuals such as a designated committee.

Q24. Paragraph 29 of the CF Notice requires the CF adviser to independently assess the third party service provider and the outcome of its work. Can such assessment be considered as independent so long as there is no common shareholder or director between the CF adviser and third party service provider?

Whether an assessment has been independently made by the CF adviser also depends on other factors, such as whether the CF representatives or individuals making the assessment, are connected to the work conducted by the third party or to individuals appointed by the third party to conduct the work.

Where the third party service provider engaged is a related party of the CF adviser or belongs to the same group, further consideration should be given to the potential conflicts of interest associated with reviewing the work of a related party and the ensuing impact on the ability of the CF adviser to make an independent assessment.

Q24A. In the conduct of an IPO, RTO or business combination by a SPAC, are 'comfort letters' (e.g. in the style of a US 10-b-5) issued by third party service providers required? Should CF advisers rely on comfort letters provided by third party service providers in discharging their due diligence obligations under the CF Notice?

A comfort letter is not a requirement and the existence of such a letter, by itself, is insufficient to establish that a CF adviser has met with its due diligence obligations in the CF Notice. Undue weight should not be placed on such a letter, which may give rise to concerns that a CF adviser has over-relied on the third party service provider during the due diligence process. The CF adviser remains responsible for meeting all due diligence obligations under the CF Notice.

[Updated on 21 August 2023]

Q25. Can CF advisers rely on expert opinions to make an assessment of the accuracy and completeness of the information in the prospectus or offer information statement (as the case may be)?

CF advisers must satisfy themselves that their reliance on the conclusions or opinions of an expert is reasonable. This includes making an assessment of and being satisfied with the knowledge, skills, experience, and qualifications of the expert, considering the scope of work conducted by the expert, and reviewing the report provided by the expert as set out in paragraph 31 to 34 of the CF Notice.

CF advisers should not place undue reliance on opinions provided for which the expert does not have the necessary knowledge, skills, experience or qualifications.

Q26. Where certain information may not be available at the point of the submission of the listing application, would the CF adviser be able to comply with the requirements of paragraph 35 of the CF Notice?

A CF adviser must have reasonable grounds to be satisfied that it is able to meet the requirements set out in paragraph 35 of the CF Notice prior to the submission of the listing application.

Where certain information is not available at the point of submission, the CF adviser should notify the Specified Approved Exchange of the outstanding information or issues. The CF adviser should continue to apprise the Specified Approved Exchange of any further developments on material issues, or new information to the satisfaction of Specified Approved Exchange.

Q27. How are CF advisers expected to comply with paragraph 35(d) of the CF Notice given that it includes a forward-looking aspect ("and on an ongoing basis thereafter")?

The key requirement under paragraph 35(d) of the CF Notice focuses on the establishment of adequate procedures, systems and controls, which allow for the directors of the listing applicant to be able to fulfil their duties in complying with the listing rules and other relevant legal and regulatory requirements, as well as to make proper assessment of the financial position and prospects of the listing applicant, on an ongoing basis.

The requirements in paragraph 35(d) of the CF Notice do not impose an ongoing obligation, post-listing, for the CF adviser to assess whether the directors of the listing applicant comply with relevant rules, or legal and regulatory obligations, or whether the directors of the listing applicant make a proper assessment of the financial position and prospects of the listing applicant.