



Monetary Authority of Singapore

**FINANCIAL ADVISERS ACT
(CHAPTER 110)**

**NOTICE ON RECOMMENDATIONS ON INVESTMENT
PRODUCTS**

FREQUENTLY ASKED QUESTIONS

Disclaimer: The FAQs are meant to provide guidance to the industry on MAS' policy and administration of the Financial Advisers Act regime. They do not constitute legal advice. MAS expects industry participants to retain their independent legal counsel to advise them on how their business operations should be conducted in order to satisfy the legal/regulatory requirements and to advise them on all applicable laws of Singapore.

1 Paragraphs 4A and 4B of Notice FAA-N16 on Recommendations on Investment Products (Notice) provide exemption from the need to comply with the Notice requirements when financial advisers advise on certain over-the-counter (OTC) derivative contracts. Under what circumstances do the exemption apply?

The Notice requirements do not apply to financial advisers¹ and their representatives for recommendations made:

- a) to **corporate clients**;
- b) solely for **hedging** purposes; **and**
- c) in relation to the following OTC derivative contracts:
 - i. a foreign exchange (FX) forward contract;
 - ii. an interest rate swap (IRS), including an IRS subject to a floor; or
 - iii. a contract that combines more than one FX forward contract or an FX forward contract and IRS, such as FX participating forwards, cross currency swaps (CCS) and a CCS subject to an interest rate floor.

The Notice requirements also do not apply to banks, merchant banks and their representatives for recommendations made:

- a) to **corporate clients**;
- b) solely for **hedging** purposes; **and**
- c) in relation to an OTC derivative contract that combines a FX forward contract and a spot FX contract other than for the purpose of leverage FX trading, such as FX swaps.

2 What constitutes hedging transactions?

Hedging transactions are transactions carried out solely for the purpose of offsetting or mitigating:

- a) the risks arising from a potential change in the value of assets or liabilities that an entity, or entity within its group, owns, produces or reasonably anticipates owning in the normal course of its business; or

¹ “Financial adviser” means a holder of a financial adviser’s licence under the FAA or an exempt financial adviser (EFA). An EFA means a person exempt from holding a financial adviser’s licence under section 23(1)(a), (b), (c), (d) or (e) of the FAA.

- b) the risks arising from a potential impact on the value of assets or liabilities resulting from fluctuation in interest rates or exchange rates.

3 *Are financial advisers exempt under paragraphs 4A and 4B of the Notice required to comply with section 27 of the FAA?*

Yes.

4 *How may financial advisers relying on the exemption under paragraphs 4A and 4B of the Notice demonstrate compliance with Section 27 of the FAA ?*

Financial advisers must put in place systems and processes to:

- a) obtain relevant information to ascertain customers' hedging needs (eg. FX forwards to hedge trade receivables and payables, hedge currency risks for assets-liabilities mismatch; IR swaps to hedge interest rate risks from loans/borrowings);
- b) factor in customers' hedging needs when making recommendations; and
- c) retain records to demonstrate (a) and (b).

For the avoidance of doubt, financial advisers are not required to perform (a) to (c) on a per transaction basis for OTC derivative contracts falling under the scope of this exemption. For example, a financial adviser may satisfy (a) to (c) by collecting, documenting and assessing information pertaining to a corporate client's investment objectives, financial position and particular needs at on-boarding and annual reviews of the client relationship.