

NOTICE ON REQUIREMENTS IN RELATION TO CROSS-BORDER ARRANGEMENTS UNDER THE FINANCIAL ADVISERS (EXEMPTION FOR CROSS-BORDER ARRANGEMENTS) (FOREIGN RELATED CORPORATIONS) REGULATIONS 2021

1. INTRODUCTION

1.1. This Notice is issued pursuant to section 58 of the Financial Advisers Act (Cap. 110) (“FAA”) and applies to all specified financial advisers as defined under regulation 2(1) of the Financial Advisers (Exemption for Cross-Border Arrangements) (Foreign Related Corporations) Regulations 2021 (“FA(ECBA)(FRC)R”) in relation to qualifying businesses carried out by their FRCs under cross-border arrangements in reliance on the exemptions in the FA(ECBA)(FRC)R.

2. DEFINITIONS

2.1. For the purposes of this Notice:

“Specified Regulated Entity” means a specified financial adviser who has entered into a cross-border arrangement with its FRC.

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(ECBA)(FRC)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 qualifying businesses carried on under cross-border arrangements between Specified Regulated Entities and their FRCs.

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

(a) where the FRC of the Specified Regulated Entity relies on the exemptions under regulation 4 of the FA(ECBA)(FRC)R, the date the FRC commences

business in a financial advisory service under a cross-border arrangement in reliance on the exemptions under regulation 4 of the FA(ECBA)(FRC)R;

- (b) where the FRC of the Specified Regulated Entity relies on the exemptions under regulation 5 of the FA(ECBA)(FRC)R, the date of lodgement of the notice mentioned in paragraph 4.2.

4. NOTIFICATION OF CROSS-BORDER ARRANGEMENTS

4.1. Where a FRC of a Specified Regulated Entity relies on the exemptions under regulation 4 of the FA(ECBA)(FRC)R, the Specified Regulated Entity must lodge with the Authority a notice setting out the details of the cross-border arrangement in Form FN (in accordance with regulation 4(3) of the FA(ECBA)(FRC)R) by the 14th day after the day on which the qualifying business commences.

4.2. Where a FRC of a Specified Regulated Entity intends to rely on the exemptions under regulation 5 of the FA(ECBA)(FRC)R, the Specified Regulated Entity must lodge with the Authority a notice of the cross-border arrangement in Form FN (in accordance with regulation 5(1) of the FA(ECBA)(FRC)R) on or before 8 October 2022.

5. ONGOING REQUIREMENTS IN RELATION TO CROSS-BORDER ARRANGEMENT

5.1. Internal Controls over Cross-Border Arrangement

5.1.1. A Specified Regulated Entity must ensure that the FRC does not carry on a qualifying business in reliance on any exemption under the FA(ECBA)(FRC)R, unless the circumstances for exemption under regulation 6(1)(b) and (e) of the FA(ECBA)(FRC)R are met.

5.1.2. 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 FRCs;
 - (ii) records of financial advisory services provided by its FRC to customers of the FRC; and

- (iii) copies of contracts or agreements entered into by its FRC with customers of the FRCs in relation to the qualifying business conducted under the cross-border arrangement;
 - (b) keep or cause to be kept in or outside Singapore, a register of foreign representatives of its FRC containing the following information:
 - (i) the name of the foreign representative and the FRC 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 of FRCs; and
 - (ii) the handling of complaints filed against foreign representatives of FRCs; and
 - (d) ensure the maintenance of the written policies and procedures mentioned under sub-paragraph (c), whether in or outside Singapore.
- 5.1.3. The Specified Regulated Entity must provide the Authority with any of the documents mentioned in paragraph 5.1.2(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. The Specified Regulated Entity must lodge with the Authority —
- (a) a notice of change in particulars in Form FC (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 FC (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 FR (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.