

NOTICE ON REQUIREMENTS IN RELATION TO CROSS-BORDER ARRANGEMENTS UNDER THE FINANCIAL ADVISERS (EXEMPTION FOR CROSS-BORDER ARRANGEMENTS) (FOREIGN OFFICES) 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 licensed financial advisers and specified exempt financial advisers as defined under regulation 2(1) of the Financial Advisers (Exemption for Cross-Border Arrangements) (Foreign Offices) Regulations 2021 (“FA(ECBA)(FO)R”), except a licensed financial adviser or specified exempt financial adviser mentioned in paragraph 1.2, in relation to qualifying businesses carried on through their foreign offices under cross-border arrangements in reliance on the exemptions in the FA(ECBA)(FO)R.
- 1.2. This Notice does not apply to a licensed financial adviser or specified exempt financial adviser that carries on a qualifying business through its foreign office under a cross-border arrangement in reliance on the exemptions under regulation 4(4) or 6(6) of the FA(ECBA)(FO)R.

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(ECBA)(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 qualifying businesses carried on by Specified Regulated Entities under cross-border arrangements.

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 –

(i) where the Specified Regulated Entity commences the qualifying business on or after 9 October 2021, the date of commencement of the qualifying business;

(ii) where the Specified Regulated Entity had carried on the qualifying business immediately before 9 October 2021, the date on which the Specified Regulated Entity ceases to comply with any of the provisions which the Specified Regulated Entity is exempted from, in reliance on the applicable exemptions under regulation 4 or 6 of the FA(ECBA)(FO)R; and

(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 Specified Regulated Entity relies on the applicable exemptions under regulation 4 or 6 of the FA(ECBA)(FO)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(2) or 6(3) of the FA(ECBA)(FO)R) by the applicable deadline under regulation 4(2) or 6(3) of the FA(ECBA)(FO)R, as the case may be.

4.2. Where a Specified Regulated Entity relies on the applicable exemptions mentioned in regulation 5 or 7 of the FA(ECBA)(FO)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 5(3) or 7(2) of the FA(ECBA)(FO)R) not later than 8 October 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 foreign office of the Specified Regulated Entity with respect to business conducted under the cross-border arrangement;
 - (ii) records of financial advisory services provided by the foreign office of the Specified Regulated Entity 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 qualifying business conducted under the cross-border arrangement;
- (b) keep or cause to be kept in or outside 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 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.