

8 October 2021

NOTICE TO LICENSED FINANCIAL ADVISERS AND SPECIFIED EXEMPT FINANCIAL ADVISERS

MONETARY AUTHORITY OF SINGAPORE ACT, CAP. 186

PREVENTION OF MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM – LICENSED FINANCIAL ADVISERS AND SPECIFIED EXEMPT FINANCIAL ADVISERS 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 27B of the Monetary Authority of Singapore Act (Cap. 186) (“MAS Act”) 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.
- 1.3 This Notice shall take effect from 9 October 2021, and shall apply to a Specified Regulated Entity —
- (a) where a Specified Regulated Entity relies on the applicable exemptions under regulation 4 or 6 of the FA(ECBA)(FO)R, from the following dates:
- (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 a Specified Regulated Entity relies on any of the applicable exemptions mentioned in regulation 5 or 7 of the FA(ECBA)(FO)R, from the date of lodgement of the notice of cross-border arrangement with the Authority as required under paragraph 4.2 of MAS Notice FAA-N23.

2 DEFINITIONS

2.1 For the purposes of this Notice —

“AML/CFT” means anti-money laundering and countering the financing of terrorism;

“beneficial owner”, in relation to a customer of a foreign office of a Specified Regulated Entity, means the natural person who ultimately owns or controls the customer or the natural person on whose behalf a transaction is conducted or business relations are established, and includes any person who exercises ultimate effective control over a legal person or legal arrangement;

“business relations” means —

- (a) the opening or maintenance of an account in relation to the provision of financial advisory services under a cross-border arrangement by the foreign office of a Specified Regulated Entity in the name of; or
- (b) the provision of financial advisory services under a cross-border arrangement by the foreign office of a Specified Regulated Entity to,

a person (whether a natural person, legal person or legal arrangement);

“CDD” means customer due diligence;

“connected party” —

- (a) in relation to a legal person (other than a partnership), means any director or any natural person having executive authority in the legal person;
- (b) in relation to a legal person that is a partnership, means any partner or manager¹; and
- (c) in relation to a legal arrangement, means any natural person having executive authority in the legal arrangement;

“Core Principles” refers to the Core Principles for Effective Banking Supervision issued by the Basel Committee on Banking Supervision, the Objectives and Principles for

¹ In the case of a limited liability partnership or a limited partnership.

Securities Regulation issued by the International Organisation of Securities Commissions, or the Insurance Core Principles issued by the International Association of Insurance Supervisors;

“customer”, in relation to a foreign office of a Specified Regulated Entity, means a person (whether a natural person, legal person or a legal arrangement) —

- (a) with whom the foreign office of the Specified Regulated Entity establishes or intends to establish business relations and includes in the case where the Specified Regulated Entity arranges a group life insurance policy, the owner of the master policy, and
- (b) who is not also a customer of the Specified Regulated Entity, as defined under the relevant AML/CFT Notice;

“direct life insurer” means a direct insurer licensed under section 8 of the Insurance Act (Cap. 142) to carry on life business as described in section 2(1) of the Insurance Act;

“financial advisory service” has the same meaning as defined in section 2(1) of the Financial Advisers Act (Cap. 110);

“financial group” means a group that consists of a legal person or legal arrangement exercising control and coordinating functions over the rest of the group for the application of group supervision under the Core Principles, and its branches and subsidiaries that are financial institutions as defined in section 27A(6) of the MAS Act or the equivalent financial institutions outside Singapore;

“legal arrangement” means a trust or other similar arrangement;

“legal person” means an entity other than a natural person that can establish a permanent customer relationship with a financial institution or otherwise own property;

“partnership” means a partnership, a limited partnership within the meaning of the Limited Partnerships Act (Cap. 163B) or a limited liability partnership within the meaning of the Limited Liability Partnerships Act (Cap. 163A);

“personal data” has the same meaning as defined in section 2(1) of the Personal Data Protection Act 2012 (Act 26 of 2012);

“relevant AML/CFT Notice” means –

- (a) in relation to a Specified Regulated Entity that is a licensed financial adviser or a specified exempt financial adviser who is a registered insurance broker exempted from the requirement to hold a financial adviser’s licence under section 23(1)(c) of the FAA, MAS Notice FAA-N06;

- (b) in relation to a Specified Regulated Entity that is a specified exempt financial adviser who is a person exempted from the requirement to hold a financial adviser's licence under section 23(1)(a) of the FAA, MAS Notice 626;
- (c) in relation to a Specified Regulated Entity that is a specified exempt financial adviser who is a person exempted from the requirement to hold a financial adviser's licence under section 23(1)(b) of the FAA, MAS Notice 1014;
- (d) in relation to a Specified Regulated Entity that is a specified exempt financial adviser who is a direct life insurer exempted from the requirement to hold a financial adviser's licence under section 23(1)(c) of the FAA, MAS Notice 314;
- (e) in relation to a Specified Regulated Entity that is a specified exempt financial adviser who is a person exempted from the requirement to hold a financial adviser's licence under section 23(1)(d) of the FAA, MAS Notice SFA 04-N02; and
- (f) in relation to a Specified Regulated Entity that is a specified exempt financial adviser who is a person exempted from the requirement to hold a financial adviser's licence under section 23(1)(e) of the FAA, MAS Notice 824;

“Specified Regulated Entity” means a licensed financial adviser or a specified exempt financial adviser who has entered into a cross-border arrangement with its foreign office; and

“transaction”, in relation to Specified Regulated Entity, means any transaction undertaken in the course of its business relations with a customer of its foreign office, and includes the sale or purchase of an investment product by a customer of its foreign office.

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.

3 RECORD KEEPING

3.1 A Specified Regulated Entity must keep or cause to be kept all data, documents and information relating to any CDD performed on customers of the foreign office of the Specified Regulated Entity by the foreign office.

3.2 A Specified Regulated Entity shall, for the purposes of record retention under paragraph 3.1, and when setting its record retention policies, comply with the following record retention periods:

- (a) for CDD information relating to the business relations, as well as account files, business correspondence and results of any analysis undertaken, a period of at

least 5 years following the termination of such business relations; and

- (b) for data, documents and information relating to a transaction, including any information needed to explain and reconstruct the transaction, a period of at least 5 years following the completion of the transaction.

3.3 A Specified Regulated Entity may retain data, documents and information mentioned in paragraph 3.1 as originals or copies, in paper or electronic form or on microfilm, provided that they are admissible as evidence in a Singapore court of law.

4 INTERNAL POLICIES

4.1 Subject to paragraph 4.2, a Specified Regulated Entity must ensure that there are adequate internal policies, procedures and controls to ensure that the performance of CDD measures by its foreign office to prevent money laundering and the financing of terrorism is consistent with the requirements set out under the relevant AML/CFT Notice applicable to the Specified Regulated Entity, in respect of customers of the foreign office of the Specified Regulated Entity.

4.2 Paragraph 4.1 does not apply to a Specified Regulated Entity if the Specified Regulated Entity is incorporated in Singapore and the foreign office is a branch of the Specified Regulated Entity in its financial group².

5 PROVISION OF RECORDS UPON REQUEST

5.1 A Specified Regulated Entity must provide the Authority with —

- (a) any of the data, documents and information mentioned in paragraph 3.1;
- (b) copies of the policies, procedures and controls mentioned in paragraph 4.1; and
- (c) where applicable, the translation of such records in the English language,

upon the Authority's written request, within the specific time period imposed by the Authority.

6 PERSONAL DATA

6.1 For the purposes of paragraph 6, "individual" means a natural person, whether living or deceased.

² For the avoidance of doubt, the Specified Regulated Entity shall continue to comply with all the requirements set out in the relevant AML/CFT Notice applicable to the Specified Regulated Entity, including, but not limited to, requirements relating to group policy on AML/CFT.

- 6.2 For the purposes of complying with this Notice, a Specified Regulated Entity may, whether directly or through a third party, collect, use and disclose personal data of an individual customer of the foreign office of the Specified Regulated Entity, an individual appointed to act on behalf of a customer of the foreign office of the Specified Regulated Entity, an individual connected party of a customer of the foreign office of the Specified Regulated Entity or an individual beneficial owner of a customer of the foreign office of the Specified Regulated Entity, without the respective individual's consent.