

**FREQUENTLY ASKED QUESTIONS (“FAQs”)
ON ENTITIES EXEMPT UNDER THE FOLLOWING PROVISIONS**

- **PARAGRAPH 7(1)(b)¹ OF THE SECOND SCHEDULE TO THE SECURITIES AND FUTURES (LICENSING AND CONDUCT OF BUSINESS) REGULATIONS (RG 10)**
- **REGULATION 27(1)(d)² OF THE FINANCIAL ADVISERS REGULATIONS (RG 2)**

(The entities are collectively referred to as “exempt persons”)

Disclaimer:

Exempt persons referred to in these FAQs are not licensed by the Monetary Authority of Singapore (“MAS”). They have informed MAS that they intend to operate under the exempt regime and are thus exempted from licensing and business conduct requirements under the Securities and Futures Act (“SFA”) and/or the Financial Advisers Act (“FAA”) and the relevant Regulations.

These FAQs are meant to provide guidance on the regulatory requirements that an exempt person is expected to comply with under the SFA and/or the FAA and the relevant Regulations. They do not constitute legal advice. If in doubt, MAS expects industry participants to seek independent legal opinion, to ensure that they continue to satisfy all legal and regulatory requirements.

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¹ For carrying on business in Singapore in giving corporate finance advice only to accredited investors, provided such advice is not specifically given for the making of any offer of securities to the public by the accredited investor to whom the advice was given. Where the accredited investor is a public company, listed on the securities exchange, or a subsidiary of a corporation listed on a securities exchange, the circulation of such advice is restricted to that which is specified in Paragraph 7(1)(b)(ii) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg 10).

² For providing financial advice in Singapore, either directly or through publications or writings or by issuing or promulgating research analyses or reports, concerning any investment product (other than life policies) to not more than 30 accredited investors on any occasion.

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(Updated on 7 August 2012)

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I. CRITERIA FOR EXEMPTION

Q1 Who can be exempted under these provisions?

A1 The exempt provisions refer to the following:

- (i) exempt corporate financial advisors, who are limited to serving only accredited investors; and
- (ii) exempt financial advisors, who are limited to serving up to 30 accredited investors.

(Please refer to Section IV on the types of persons who are considered qualified and accredited investors.)

In the case of a registered fund manager who is also an exempt financial adviser, the total number of qualified investors and accredited investors served should not exceed 30 in total. Persons intending to operate under the exempt regime are encouraged to seek legal advice on whether their business model qualifies for the exemption. **In the event of any contravention of the applicable laws and regulations, regulatory actions against the corporation and/or the individual will be taken.**

[Amended on 7 August 2012]

Q2 What are the pre-requisites that must be met by an exempt person?

A2 Under the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg 10) ["SFR"] and the Financial Advisers Regulations (Rg 2) ["FAR"], it is a requirement for an exempt person to be fit and proper. In this regard, an exempt person must be able to satisfy and demonstrate to MAS that it meets the fit and proper criteria in respect of honesty, integrity and reputation; competence and capability; and financial soundness, as stated in the Guidelines on Fit and Proper Criteria [Guidelines No. FSG-G01]. The fit and proper requirements have to be met on an on-going basis, and are also applicable to the exempt person's substantial shareholders or persons who have decision-making power in the company; directors or equivalent persons; and representatives who conduct regulated activities on behalf of the exempt person.

As required under the Second Schedule to the SFR and the FAR, an exempt person must maintain its operations in Singapore, and have adequate resources, including compliance arrangements commensurate with the size and scale of its business activities in Singapore. To demonstrate that it has meaningful operations in Singapore and is able to satisfy the competence and capability requirement, an exempt person is expected to operate from an office premise in Singapore and is strongly encouraged to employ a minimum of two professionals, each with at least five years of relevant working experience in reputable jurisdictions. An exempt person should also have at least one resident CEO or executive director who exercises management oversight of its operations.

In assessing honesty, integrity and reputation, MAS takes into account amongst other considerations - an exempt person's and its key persons' or representatives' disciplinary and compliance records in Singapore and other jurisdictions. To demonstrate minimum financial viability, an exempt person is expected to maintain paid up capital that is sufficient to cover its set up cost and at least six months of operational costs. It is also expected to maintain positive shareholders' equity at all times.

Please note that the fulfillment of the minimum expectations illustrated above does not necessarily imply that an entity satisfies all the criteria expected of an exempt person. MAS reserves the right to require an exempt person to fulfill additional requirements or put in place further safeguards to take into account any other considerations or risks specific to the exempt person and its business model.

For more information on the fit and proper requirements, please refer to the Guidelines on Fit and Proper Criteria [Guidelines No. FSG-G01] which are available on the MAS website at www.mas.gov.sg.

Q3 Given that MAS strongly encourages exempt persons to have a minimum of two professionals, each with at least five years of relevant working experience in the activity that he or she intends to conduct, can MAS provide guidance on what would constitute 'relevant experience'?

A3 Generally, a person would be considered to have relevant experience if he or she has previously performed similar roles or carried out activities similar to what he or she proposes to undertake on behalf of the exempt person. For instance, a professional employed with an exempt corporate finance advisor is expected to have experience in activities that form an essential part in providing advice on corporate finance, including

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prospecting and marketing, industry research and analysis, valuation, conducting due diligence on deals, advising clients or providing independent advice on deals and so on. Generally, this means the professional would have been involved in some corporate finance transactions, such as advising on mergers and acquisitions, advising on IPO, and advising on restructuring, divestment etc. Please note that these examples only serve to provide guidance and are not exhaustive in nature. An exempt person should make its own assessment to ensure that the professionals it employs can satisfy these expectations and meet the fit and proper criteria.

[Amended on 7 August 2012]

Q4 My company is based outside of Singapore. Can I operate as an exempt person in Singapore by appointing a local contact person?

A4 It is a requirement for an exempt person to be “resident in Singapore”, with its operations based in Singapore. An exempt person lodged with MAS would be in contravention of the law if the person is a shell entity with no business operations in Singapore. The exempt person is expected to appoint a resident director who will be accountable for the company’s day to day operations.

II. LODGMENT FOR COMMENCEMENT OF BUSINESS AS AN EXEMPT PERSON

Q5 For the purpose of operating as an exempt person, what forms do I need to lodge and where can I obtain these forms?

A5 Any entity who wishes to operate as an exempt person is required to submit to MAS the following forms, not later than 14 days after the date of commencement of business:

Act	Exempt Person	Form	Links to the Forms
Securities and Futures Act	Exempt Corporate Finance Adviser	22	http://www.mas.gov.sg/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Securities-Futures-and-Funds-Management/Forms
Financial Advisers Act	Exempt Financial Adviser	20	http://www.mas.gov.sg/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Financial-Advisers/Forms

NOTE: All lodgments with MAS must be made using the latest version of the forms which are available on the MAS website. Copies of the relevant documentation must be submitted in accordance with the requirements stated in the form. This is to avoid delays in the processing of the company’s lodgment.

[Amended on 7 August 2012]

Q6 Where should I send the completed form(s) to?

A6 You should submit the completed form(s) to the following address:

Monetary Authority of Singapore
10 Shenton Way
MAS Building
Singapore 079117
Attention: Capital Markets Intermediaries Department

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Q7 What can I expect after I have submitted the notification form(s) to MAS for the commencement of my business?

A7 As part of the notification process, MAS will acknowledge the lodgment for exemption upon receipt of a fully completed form and the relevant documentation. Please note that the exempt person must satisfy the fit and proper requirements and maintain operations in Singapore (as elaborated under FAQ 2). All entities whose lodgments are acknowledged by MAS will be listed on the MAS website under the “Financial Institutions Directory”.

Q8 Can I get a certification from MAS that I am an exempt person?

A8 MAS will send an acknowledgment letter to exempt persons who have notified MAS of their commencement of business and who have declared that they are fit and proper.

We would like to highlight that under sections 86(1) and (3) of the Financial Advisers Act (“FAA”) and sections 329(1) and (3) of the Securities and Futures Act (“SFA”), any person who furnishes MAS with any information under these Acts shall use due care to ensure that the information is not false or misleading in any material particular and any person who signs any document lodged with MAS shall use due care to ensure that the document is not false or misleading in any material particular. Any person who contravenes this requirement shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 (under the SFA) or a fine not exceeding \$25,000 (under the FAA) or to imprisonment for a term not exceeding two years or to both.

The letter of acknowledgment is not a confirmation of the fitness and propriety of the exempt person.

The list of exempt persons is made available on the MAS website under the Financial Institutions Directory.

Anyone who wishes to deal with an exempt person should conduct its own due diligence and should not rely on MAS’ letter of acknowledgment or the listing of exempt persons on the MAS website as they are not a confirmation of the fitness and propriety of the exempt persons.

III. ONGOING REGULATORY REQUIREMENTS OF AN EXEMPT PERSON

Q9 What are the ongoing reporting requirements of an exempt person?

A9 An exempt person is required to submit the following to MAS on an ongoing basis:

Type of reporting	Exempt Person	Forms	Requirements
Notice of <u>change in particulars</u>	Exempt Corporate Financial Adviser	(SFA) Form 23	To be submitted <u>within 14 days</u> after date of change
	Exempt Financial Adviser	(FAA) Form 21	

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Type of reporting	Exempt Person	Forms	Requirements
Notice of <u>cessation of business</u>	Exempt Corporate Financial Adviser	(SFA) Form 24	To be submitted <u>not later than 14 days</u> after date of cessation
	Exempt Financial Adviser	(FAA) Form 22	
<u>Annual declaration</u>	Exempt Corporate Financial Adviser	(SFA) Form 21	To be submitted <u>within 14 days</u> after the end of <u>the financial year of exempt person.</u>
	Exempt Financial Adviser	(FAA) Form 23	

SFA: Securities and Futures Act

FAA: Financial Advisers Act

You may download the forms from the MAS website via the following links³:

SFA forms:

<http://www.mas.gov.sg/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Securities-Futures-and-Funds-Management/Forms>

FAA forms:

<http://www.mas.gov.sg/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Financial-Advisers/Forms>

[Amended on 7 August 2012]

Q10 In addition to the ongoing reporting requirements, are there any ongoing obligations that an exempt person must comply with?

A10 Yes, in addition to the ongoing reporting requirements set out in FAQ 8, an exempt person is required to comply with the relevant exempt provisions and Notices, as well as to observe the Guidelines applicable to an exempt person. Besides maintaining operations in Singapore and satisfying fit and proper requirements mentioned in the Guidelines on Fit and Proper Criteria (Guideline No. FSG-G01), the company is required to comply with the applicable Regulations and Notices such as⁵:

- a. (i) Notice to Capital Markets Services Licensees and Exempt Persons on Prevention of Money Laundering and Countering the Financing of Terrorism [Notice No. SFA 04-N02];
and/or
- (ii) Prevention of Money Laundering and Countering the Financing of Terrorism [Notice No. FAA-N06].

You may also wish to refer to the relevant Guidelines on Prevention of Money Laundering and Countering the Financing of Terrorism;

³ MAS may, from time to time, make changes to the provisions under this exemption regime or impose new requirements. While MAS may consult the public on policy changes, exempt persons are required to be apprised of the changes in the relevant laws and regulations. You may wish to subscribe to the 'Mailing List' on the MAS website to be alerted of updates. You can sign up to be included in the Mailing List via the following link: <http://www.mas.gov.sg/News-and-Publications/MAS-Announcements>

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- b. Monetary Authority of Singapore (Anti-terrorism Measures) Regulations 2002; and
- c. (i) Notice on Prohibited Representations by Exempt Financial Institutions under the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg 10) [Notice No. SFA 04-N07]; and/or
(ii) Notice on Prohibited Representations Made by Persons Exempted under regulation 27(1)(d) of the Financial Advisers Regulations (Rg 2) [Notice No. FAA-N10].

Q11 Under the Notice on “Prevention of Money Laundering and Countering the Financing of Terrorism” [SFA 04-N02 or FAA-N06], what are the relevant filing requirements applicable to an exempt person?

A11 An exempt person is required to submit reports on suspicious transactions (including attempted transactions) to the Suspicious Transactions Reporting Office, Commercial Affairs Department of the Singapore Police Force, and extend a copy to MAS, marked to the attention of Mr Wesley Kang (Capital Markets Intermediaries Department), who has been duly gazetted as an authorised officer under section 39 of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap. 65A).

The relevant forms can be found in the Notice on Prevention of Money Laundering and Countering the Financing of Terrorism [Notice No. SFA 04-N02 or Notice No. FAA-N06]

The Notices may be found via the following links:

Notice to Capital Markets Services Licensees and Exempt Persons on Prevention of Money Laundering and Countering the Financing of Terrorism [Notice No. SFA 04-N02]:

<http://www.mas.gov.sg/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Securities-Futures-and-Funds-Management/Notices>

Prevention of Money Laundering and Countering the Financing of Terrorism [Notice No. FAA-N06]:

<http://www.mas.gov.sg/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Financial-Advisers/Notices>

Q12 Being an exempt person, can I represent myself or my business as being ‘registered’ or ‘regulated’ by MAS?

A12 No, an exempt person, including its representatives, cannot represent itself, nor cause to be represented, to any person as being licensed, regulated, supervised, or registered by MAS, whether verbally or in writing.

The relevant Notices may be found via the following links:

Notice on Prohibited Representations by Exempt Financial Institutions under the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg 10) [Notice No. SFA 04-N07]

<http://www.mas.gov.sg/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Securities-Futures-and-Funds-Management/Notices>

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Notice on Prohibited Representations Made by Persons Exempted under regulation 27(1)(d) of the Financial Advisers Regulations (Rg 2) [Notice No. FAA-N10]
<http://www.mas.gov.sg/Regulations-and-Financial-Stability/Regulations-Guidance-and-Licensing/Financial-Advisers/Notices>

Q13 One of my key officers or representatives is under an investigation but has not been convicted of a wrongdoing. Do I need to notify MAS?

A13 Yes, as stated in the Guidelines on Fit and Proper Criteria [Guideline No. FSG-G01], MAS requires the shareholders, key officers and representatives of an exempt entity to be competent, honest, have integrity and to be of sound financial standing, and whether a relevant person has been the subject of any investigations or disciplinary proceedings as listed in paragraph 11(k) of the Guidelines is a factor which MAS takes into consideration in assessing the honesty, integrity and reputation of a relevant person. It is a requirement for an exempt person to make an assessment of the fitness and propriety of all the shareholders, key officers and representatives prior to their appointment and on an ongoing basis.

An exempt person is required to notify MAS of any change in particulars set out in its notice of commencement of business and such particulars include the matters set out in “Part VI Fit and Proper Criteria for exempt person, key officer(s), shareholder(s) and representative(s)”. Where there are subsequent changes to the status of the fitness and propriety of its shareholders, key officers and representatives, the exempt person is to lodge a notice of change of particulars no later than 14 days after the date of the change. Should there be any doubts with regards to the fit and proper criteria, the exempt person should check with MAS immediately.

Q14 What are the implications of contravening regulatory requirements?

A14 MAS takes a serious view of contraventions by an exempt person. Regulatory actions will be taken against the corporation and/or the individual in the event of a breach of applicable laws and regulations. Contraventions will also be taken into consideration by MAS when deciding on future actions to take against the exempt person in the event of a subsequent contravention of applicable laws and regulations, or when considering any licensing application by the exempt person.

Q15 I have not commenced my business since I had lodged a notification with MAS as an exempt person a year ago. Is my exemption still considered valid?

A15 An exempt person is no longer exempt if he has not started operations within six months of the commencement date indicated in the lodgment form. You may make a re-lodgment when you are ready to commence your business.

Q16 Are the representatives of an exempt person required to take the Capital Markets and Financial Advisory Services Examinations [“CMFAS Exams”]?

A16 No, representatives of exempt persons are not required to take the CMFAS Exams.

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(Updated on 7 August 2012)

Q17 If I am currently an appointed, provisional or temporary representative of a holder of a Capital Markets Service (“CMS”) licence or a Financial Advisers (“FA”) licence, can I be a representative of an exempt person?

A17 No. A person shall not be concurrently an appointed, provisional or temporary representative under the SFA or FAA and a representative of an exempt person for the same type of business or activity.

IV. OTHERS

Q18 [Deleted on 7 August 2012]

Q19 Who does an “accredited investor” refer to?

A19 An “accredited investor” as stated in section 4A(1)(a) of the Securities and Futures Act read with regulation 2 of the Securities and Futures (Prescribed Specific Classes of Investors) Regulations 2005 and regulation 2 of the Financial Advisers Regulations refers to:

- (a) an individual —
 - (i) whose net personal assets exceed \$2 million in value (or its equivalent in a foreign currency); or
 - (ii) whose income in the preceding 12 months is not less than \$300,000 (or its equivalent in a foreign currency);
- (b) a corporation with net assets exceeding \$10 million in value (or its equivalent in a foreign currency), as determined by —
 - (i) the most recent audited balance-sheet of the corporation; or
 - (ii) where the corporation is not required to prepare audited accounts regularly, a balance-sheet of the corporation certified by the corporation as giving a true and fair view of the state of affairs of the corporation as of the date of the balance-sheet, which is a date within the preceding 12 months;
- (c) the trustee of a trust of which all property and rights of any kind whatsoever held on trust for the beneficiaries of the trust exceed \$10 million in value (or its equivalent in a foreign currency);
- (d) an entity (other than a corporation) with net assets exceeding \$10 million in value (or its equivalent in a foreign currency);
- (e) a partnership (other than a limited liability partnership within the meaning of the Limited Liability Partnerships Act 2005 (Act 5 of 2005)) in which each partner is an accredited investor; or
- (f) a corporation the sole business of which is to hold investments and the entire share capital of which is owned by one or more persons, each of whom is an accredited investor.

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Q20 Must I certify that the clients I approach are accredited investors?

A20 An exempt person is required to conduct its own due diligence to verify that its clients are of qualified/accredited status. The due diligence checks should be supported by documentary evidence for proper audit trail.

Q21 Where can I obtain a list of the exempt persons operating in Singapore?

A21 The list is available on MAS website, under the Financial Institution Directory. (<https://secure.mas.gov.sg/fid>).

Q22 What are the procedures for cessation of business by an exempt person?

A22 An exempt person should ensure an orderly winding down of its business prior to cessation. This includes but is not limited to: (i) putting in place communication plans to ensure sufficient notice period has been given to its customers, business partners and other relevant stakeholders regarding its cessation; and (ii) discharging all customer obligations and ensuring that customer assets and/or monies have been accounted for and returned to customers before it ceases. The exempt person is also required to file a notice of cessation of business in the prescribed form (Form 24 of the Securities and Futures (Licensing and Conduct of Business) Regulations or Form 22 of the Financial Advisers Regulations) not later than 14 days after the cessation of its business.

[Updated on 11 April 2012]