



Monetary Authority of Singapore

**FREQUENTLY ASKED QUESTIONS ON
THE EXEMPTION FRAMEWORKS FOR CROSS-
BORDER BUSINESS ARRANGEMENTS OF CAPITAL
MARKETS INTERMEDIARIES INVOLVING FOREIGN
RELATED CORPORATIONS AND FOREIGN OFFICES**

FREQUENTLY ASKED QUESTIONS (FAQs) ON THE EXEMPTION FRAMEWORKS

Contents

- A Definitions of Key Terms
- B Scope and Applicability
- C Notification and Reporting Requirements
- D Boundary Conditions
- E AML/CFT Requirements
- F Treatment of Existing Arrangements
- G Miscellaneous

A Definitions of Key Terms

FRC	Foreign related corporation
FO	The foreign head office or branch in the context of the Branch Framework
Singapore FI	The regulated or exempted Singapore company within the scope of the FRC Framework, or the Singapore Office within the scope of Branch Framework, as applicable
Singapore Office	A regulated or exempted financial institution in Singapore which is a branch or head office, in the context of the Branch Framework
FRC Framework	Exemption framework for cross-border business arrangement(s) between a Singapore FI and its FRC(s)
Branch Framework	Exemption framework for cross-border business arrangements between a Singapore Office and a FO
Exemption Frameworks	Both the FRC Framework and the Branch Framework
SFA	Securities and Futures Act
FAA	Financial Advisers Act
LCB	Securities and Futures (Licensing and Conduct of Business) Regulations
FAR	Financial Advisers Regulations
SF(COI)R	Securities and Futures (Classes of Investors) Regulations 2018
SF(ECBA)(FRC)R	Securities and Futures (Exemption for Cross-Border Arrangements) (Foreign Related Corporations) Regulations 2021
FA(ECBA)(FRC)R	Financial Advisers (Exemption for Cross-Border Arrangements) (Foreign Related Corporations) Regulations 2021
SF(ECBA)(FO)R	Securities and Futures (Exemption for Cross-Border Arrangements) (Foreign Offices) Regulations 2021
FA(ECBA)(FO)R	Financial Advisers (Exemption for Cross-Border Arrangements) (Foreign Offices) Regulations 2021
FRC Regulations	Both the SF(ECBA)(FRC)R and FA(ECBA)(FRC)R
FO Regulations	Both the SF(ECBA)(FO)R and FA(ECBA)(FO)R

SFA FRC Notice	Notice on Requirements in relation to Cross-Border Arrangements under the Securities and Futures (Exemption for Cross-Border Arrangements) (Foreign Related Corporations) Regulations 2021
FAA FRC Notice	Notice on Requirements in relation to Cross-Border Arrangements under the Financial Advisers (Exemption for Cross-Border Arrangements) (Foreign Related Corporations) Regulations 2021
SFA FO Notice	Notice on Requirements in relation to Cross-Border Arrangements under the Securities and Futures (Exemption for Cross-Border Arrangements) (Foreign Offices) Regulations 2021
SFA FO Notice	Notice on Requirements in relation to Cross-Border Arrangements under the Financial Advisers (Exemption for Cross-Border Arrangements) (Foreign Offices) Regulations 2021
FRC/FO Notices	AML All Notices under the FRC/Branch Frameworks relating to requirements on anti-money laundering and countering the financing of terrorism
Relevant AML/CFT Notice	The AML/CFT Notice applicable to the Singapore FI in respect of the Singapore FI's customers, e.g. Notice SFA04-N02 for capital markets services licence holders
AML/CFT	Anti-money laundering and countering the financing of terrorism
FATF	Financial Action Task Force
UNSC	Security Council of the United Nations
CDD	Customer due diligence

B Scope and Applicability

- 1. Our FRC/FO conducts regulated activities with Singapore customers under an arrangement with the Singapore FI. Is there a need to notify MAS under the Exemption Frameworks?**

The Exemption Frameworks are relevant where the activities conducted by the FRC/FO and its representatives are: (a) regulated under the SFA and/or FAA; (b) not otherwise exempted; and (c) where the extra-territoriality of the Act applies. It is a question of fact whether the extra-territoriality of the Act applies. FIs should refer to the Guidelines on the Application of Section 339 (Extra-Territoriality) of the Securities and Futures Act, which set out the general principles on the scope and application of the extra-territorial effect of the SFA in relation to cross-border activities, and make their own assessment based on the facts and circumstances of the case.

- 2. Our FRC/FO is currently relying on another licensing exemption to conduct regulated activities under a cross-border arrangement. Is there a need to notify MAS under the Exemption Frameworks?**

If the FRC/FO is able to rely on another licensing exemption to conduct a certain regulated activity, there is no need to file a notification under the Exemption Frameworks.

- 3. Does MAS have any expectations on the minimum level of involvement of the Singapore FI under a cross-border arrangement to rely on the Exemption Frameworks?**

MAS expects Singapore FIs to have substantive business operations in Singapore, and to play a meaningful role in the cross-border arrangement. It is not MAS' intent to facilitate arrangements that would encourage the establishment of entities/branches in Singapore that:

- (i) are shell companies;
- (ii) are marketing entities with minimal business presence; or
- (iii) facilitate business practices or market conduct that could undermine regulatory objectives, or pose a risk to financial stability and market confidence.

In respect of cross-border arrangements, the Singapore FI's role should not be limited solely to marketing activities under the arrangement. Where the Singapore FI's role involves client servicing under the arrangement, it should carry out a substantial portion of such client servicing activities.

- 4. We have an overseas-based individual conducting regulated activities with Singapore customers. Should he/she be appointed as a representative of the Singapore FI, or can he/she be exempted under the Exemption Frameworks? If the overseas-based individual was appointed as a representative of the Singapore FI prior to the implementation of the Branch Framework, can he/she remain appointed as the Singapore FI's representative?**

Singapore FIs should assess whether the individual is acting on behalf of the Singapore FI or FRC/FO. If it is the former, the individual should be appointed as an overseas-based representative of the Singapore FI and comply with all applicable

conduct requirements under the SFA/FAA as an appointed representative. If it is the latter, the individual would be exempted under the Exemption Frameworks in respect of his/her conduct under the notified cross-border arrangement between the Singapore FI and the FRC/FO that the individual is acting on behalf of.

The same assessment applies for an individual who is currently an overseas-based appointed representative of the Singapore FI prior to the implementation of the Branch Framework. Where the Singapore FI assessed that the individual is acting on behalf of the FO, the Singapore FI should cease his/her appointment and transfer him/her to the Branch Framework. In this process, FIs should inform and explain to the representative's customers that the representative no longer appears as an appointed representative on MAS' Register of Representatives, and why the representative ceased to be appointed. This is to assure the customers that they could continue to deal with this individual notwithstanding his/her change in status.

5. Under what circumstances would an individual based overseas be considered as acting on behalf of the Singapore Office and not the FRC/FO?

Whether an individual based overseas is acting on behalf of the Singapore Office or the FRC/FO in his/her conduct of regulated activities would depend on the facts and circumstances of the case. As a guide, FIs should consider the following factors when assessing if an individual based overseas is acting on behalf of the Singapore Office or the FRC/FO:

- (i) Which office is responsible for the individual's conduct of regulated activities in Singapore;
- (ii) Which office the individual represents to the customer that he/she is acting for in his/her dealings with the customer; and
- (iii) Which office the customer is contracted with.

For example, consider an individual who is based overseas and has regional responsibilities, where his/her job scope involves conducting regulated activities with customers in Singapore who are contracted with the Singapore Office. If his/her conduct of regulated activities is under the supervisory oversight of the Singapore Office, and in his/her dealings with customers and through the marketing collateral used (such as business card), the individual gives customers an impression that he/she represents the Singapore Office, it is more likely than not that this individual is acting on behalf of the Singapore Office.

For avoidance of doubt, where an individual is acting on behalf of the FRC/FO in his/her dealings with customers in Singapore, MAS expects the Singapore FI to disclose to customers this fact, and that the individual is not subject to MAS' regulation. The Singapore FI should also clarify the recourse available to their customers for any issue which may arise in the customers' dealings with the individual based overseas. MAS does not prescribe the level of details or format for such disclosures to customers by FIs, which will depend largely on the nature of the services being provided to customers. FIs should consider the appropriateness of disclosures to customers as part of effective risk management and sound business practice.

[Updated on 2 September 2022]

6. Can an overseas-based individual be appointed as a representative of the Singapore Office and at the same time exempted as a foreign representative under the SF(ECBA)(FO)R, in a scenario where the individual is acting on behalf

of the Singapore Office to some customers and acting on behalf of the FO (under a cross-border business arrangements between the Singapore Office and the FO) to the others?

In line with the definition of “foreign representatives” in the SF(ECBA)(FO)R, an appointed representative of the Singapore Office would not be able to be exempted as a foreign representative under SF(ECBA)(FO)R, and is required to comply with all applicable conduct requirements under the SFA as an appointed representative, regardless of whether he/she is dealing with a customer booked in the Singapore Office or the FO. This avoids confusion for customers dealing with the individual, as it is reflected on the public Register of Representatives that he/she is acting on behalf of the FI, and the customers would expect him/her to be an appointed representative who is subject to MAS’ regulations.

[Updated on 2 September 2022]

C Notification and Reporting Requirements

7. Must we notify MAS via the commencement notification form (Form FN) prior to the commencement of a new cross-border arrangement?

New cross-border arrangements must be notified to MAS within 14 days after commencement in Form FN. These notification requirements do not apply to cross-border arrangements that have yet to commence, although they may be notified to MAS prior to commencement if the boundary conditions are met.

8. What should be the commencement date indicated for a cross-border arrangement which was approved by MAS under paragraph 9 of the Third Schedule to the SFA and/or paragraph 11 of the First Schedule to the FAA prior to the implementation of the FRC Framework?

Singapore FIs should indicate a date on or after 9 October 2021, depending on when the arrangement has been assessed to comply with the boundary conditions under the FRC Framework, and indicate in Form FN that the arrangement is an existing one.

9. How should the name of an arrangement or the relevant business unit be determined?

The name of an arrangement or the relevant business unit may be determined by the Singapore FI. Examples of suitable names may include the name of the business line or business unit carrying out the arrangement, or the types of products or services being provided under the arrangement.

10. Can a single notification form be used for an arrangement involving multiple entities (e.g. between one FRC and multiple Singapore FIs, and between one Singapore FI and multiple FRCs/FOs)?

For the purposes of notifying MAS through the prescribed forms, each notification should only be in respect of one Singapore FI. Where multiple Singapore FIs within the same corporate group are involved in the same arrangement, each Singapore FI is required to submit a separate notification in respect of the arrangement. For avoidance of doubt, each notification by a Singapore FI can include multiple FRCs/FOs in the same notification form.

11. For notifying MAS of addition of FRCs to or removal of FRCs from a cross-border arrangement, how detailed must the provided group shareholding chart be?

Whenever an FRC is added to or removed from a cross-border arrangement, a complete and accurate group shareholding chart reflecting all FRCs before and after the change should be provided via the notification of change in particulars form (Form FC).

12. What are the notification and reporting requirements for cross border arrangements involving the financial advisory service of issuing or promulgating research analyses or reports for investment products under the FAA?

Notification and reporting requirements do not apply to FRCs and FOs relying on the exemption under regulation 32C of the FAR and the FA(ECBA)(FO)R respectively. However, for FRCs and FOs which issue or promulgate research reports to investors other than accredited, expert or institutional investors, the Singapore FIs are required to accept legal responsibility for the contents of the analysis or report without any disclaimer and ensure that the analysis or report contain a statement to the effect that recipients of the analysis or report are to contact the Singapore FI in respect of any matters arising from, or in connection with, the analysis or report.

13. How much detail should be provided on the process chain, as part of Form FN and Form FC?

For the sections on the process chain in the notification forms, the information provided should be sufficiently detailed to show that the Singapore FI plays a substantive role in the cross-border arrangement. If there are changes to the roles of the Singapore FI or the FRC/FO resulting in changes to the process chain information previously notified, the Singapore FI will be required to notify MAS through Form FC.

14. Are we required to notify MAS of a change in regulatory status of the FRC/FO?

Insofar that a change in the regulatory status of the FRC/FO results in the FRC/FO no longer meeting the exemption requirements fully, the Singapore FI must notify MAS of the cessation of the arrangement via Form FC. There is no need to notify MAS of a change in regulatory status of the FRC/FO if it does not affect the FRC/FO's eligibility to come under the Exemption Frameworks.

[Updated on 2 September 2022]

15. Would business functions other than internal audit (such as the compliance function) qualify as an independent assurance function for the purposes of providing the annual audit certification of compliance with boundary conditions under the Exemption Frameworks?

The audit certification can only be provided by an internal auditor, external auditor or a service provider engaged to perform the internal audit function for the Singapore FI, as these functions are not involved in the day-to-day business or control functions, and as such, are best placed to provide an independent certification.

16. Is there a prescribed template or language to be used for the audit certification? Can the audit certification be provided as part of the long-form report submitted to MAS by a bank?

There is no prescribed template for the audit certification, although it should be provided in the English language. If the audit certification that the Singapore FI has complied with the requirements prescribed under the relevant regulations and notices

is included in the long-form report, the FI should attach the report when submitting the annual reporting Form FR.

[Updated on 2 September 2022]

17. Can the audit certification be provided in accordance with the relevant group or entity’s own risk-based internal audit cycles, which may not be on an annual basis?

Audit certifications under the Exemption Frameworks must be provided on an annual basis, based on the Singapore FI’s financial year end, in all instances.

18. How should the number of customers be reported in the annual reporting form if there are customers with (i) multiple accounts (e.g. account in individual’s name, account under a trust structure and account under a personal investment company), or (ii) joint accounts (e.g. joint account with three joint account holders)?

Customers are defined as individuals on whose behalf the FRC/FO carries on regulated activities or provides financial advisory services. Where there are customers with multiple accounts or joint accounts, reporting should be based on the specific name(s) that the account is registered under. Hence, if a person holds an account in his/her own name, an account under a trust structure and an account under a personal investment company, this should be reported as 3 unique customers. If there is a joint account with three joint account holders, this should be reported as 3 unique customers.

19. Can the number of representatives be reported based on the remit assigned to the representatives (i.e. whether the representatives have been officially assigned to serve customers under the cross-border arrangement) rather than whether they actually carried out regulated activities with customers under the cross-border arrangement?

Yes, FIs may report the number of representatives in Form FR based on the remit assigned to the representatives.

[Updated on 2 September 2022]

20. Where a Singapore FI has multiple cross-border arrangements, how should the number of customers under the arrangement and revenue from the arrangement be reported?

A separate annex should be completed for each cross-border arrangement in Form FR. Accordingly, the responses in the Annex should relate only to the specific arrangement that Annex is for.

[Updated on 2 September 2022]

21. Does the annual reporting requirement apply if there had not been any transactions under the cross-border arrangement in the preceding financial year?

As long as a cross-border arrangement had been notified to MAS under the Exemption Frameworks, the annual reporting requirement applies, even if there have not been any transactions under the arrangement in the preceding financial year. This includes the need to provide an audit certification on compliance with the boundary conditions under the Exemption Frameworks.

22. When is the first annual reporting via Form FR due?

Considering that the annual reporting process under the Exemption Frameworks involves new pieces of information, MAS has deferred the due date of the first round of annual reporting to 2023. Please refer to the table below for an illustration of the applicable due dates under various scenarios.

	Commencement date of arrangement	Singapore FI's financial year end	Treatment
Scenario 1	November 2021	December	Annual reporting due by May 2023 (for financial year ended December 2022), instead of May 2022 (for financial year ended December 2021) <i>[Annual reporting should cover activities conducted under the arrangement from its commencement in November 2021 to December 2022.]</i>
Scenario 2	October 2022	December	Annual reporting due by May 2023 (for financial year ended December 2022) <i>[No further extension as the first round of reporting is already due in 2023. Annual reporting should cover activities conducted under the arrangement from its commencement in October 2022 to December 2022.]</i>
Scenario 3	November 2021	September	Annual reporting due by February 2023 (for financial year ended September 2022) <i>[No further extension as the first round of reporting is already due in 2023. Annual</i>

	Commencement date of arrangement	Singapore FI's financial year end	Treatment
			<i>reporting should cover activities conducted under the arrangement from its commencement in November 2021 to September 2022.]</i>
Scenario 4	October 2022	September	Annual reporting due by February 2024 (for financial year ended September 2023) <i>[Annual reporting should cover activities conducted under the arrangement from its commencement in October 2022 to September 2023.]</i>
Scenario 5	January 2022	March	Annual reporting due by August 2023 (for financial year ended March 2023), instead of August 2022 (for financial year ended March 2022) <i>[Annual reporting should cover activities conducted under the arrangement from its commencement in January 2022 to March 2023.]</i>

[Updated on 2 September 2022]

D Boundary Conditions

23. **Should the Singapore FI be authorised to conduct all the regulated activities under a cross-border arrangement to meet the requirements under the Exemption Frameworks?**

The Singapore FI is required to be licensed or authorised to conduct the corresponding regulated activities that its FRCs/FOs intend to conduct as part of the cross-border arrangement. As an exception, FRCs/FOs can enter into an arrangement with a Singapore FI to provide product financing or custodial services as a complement to the Singapore FI's business of dealing in capital markets products (in respect of the same types of capital markets products), even if the Singapore FI is not licensed or authorised to provide product financing or custodial services.

24. **Under the Exemption Frameworks, the FRC/FO must be licensed, authorised, regulated or supervised by a regulatory body in the foreign jurisdiction where the FRC/FO is operating from. Can this requirement be met if the FRC/FO is relying on exemptions in respect of the specific activity conducted under the cross-border arrangement, or if the specific activity is not regulated in the foreign jurisdiction where the FRC/FO is operating from?**

Yes, this requirement can be met even if the FRC/FO is relying on exemptions in respect of the specific activity conducted under the cross-border arrangement, or if the conduct of a specific activity under the cross-border arrangement is not regulated in the foreign jurisdiction. However, if the FRC/FO is only conducting a specific activity (i) which is not regulated in a particular jurisdiction, or (ii) in reliance on exemptions, such that the FRC/FO is entirely not licensed, authorised, regulated or supervised by a foreign regulatory authority (as defined in the FRC/FO Regulations) in its jurisdiction of operation, the FRC/FO would not fulfil this requirement and cannot avail itself to the Exemption Frameworks. This applies for all activities other than the issuance or promulgation of research analyses or reports for investment products.

25. **In the case of issuing or promulgating research analyses or reports for investment products, if the FRC/FO that intends to conduct the activity under the cross-border arrangement is not currently regulated in the jurisdiction where the FRC/FO is operating from, can the FRC/FO avail itself to the exemption?**

MAS recognises that issuing or promulgating research analyses or reports for investment products may not be regulated in all jurisdictions. Hence, the condition for the FRC/FO to be subject to regulatory oversight by a foreign regulatory authority would only apply if it is a requirement in the foreign jurisdiction.

26. **The Singapore FI is required to ensure that the FRC/FO complies with the requirements under regulation 6 of the SF(ECBA)(FRC)R, regulation 6 of the FA(ECBA)(FRC)R, regulation 10 of the SF(ECBA)(FO)R and/or regulation 8 of the FA(ECBA)(FO)R (as applicable). How is the Singapore FI expected to do so on an ongoing basis if it does not have control over the regulatory status of the FRC/FO or the jurisdiction from which the FRC/FO operates from? Can the FRC/FO be responsible for ensuring compliance with these requirements?**

The Singapore FI is expected to implement internal policies and procedures under the arrangements, to ensure that the Singapore FI is updated on material matters, including changes relating to the FRC/FO's regulatory status, as well as the jurisdiction where the FRC/FO operates from. The responsibility for ensuring compliance with the FRC/FO Regulations cannot be delegated.

27. What are the implications for a cross-border arrangement under the Exemption Frameworks if the jurisdiction from which the FRC/FO operates from or the FRC/FO itself is subjected to sanctions, after commencement of the arrangement?

If the relevant foreign jurisdiction or FRC/FO becomes subject to sanctions by the UNSC, cross-border arrangements involving the FRC/FO or an FRC/FO operating from the relevant foreign jurisdiction must be immediately discontinued. MAS should be notified of the cessation of such cross-border arrangements through Form FC, as with any other material change.

28. Can the status of the customer be ascertained during the onboarding process rather than at the marketing or prospecting stage?

In respect of cross-border arrangements under the Exemption Frameworks, Singapore FIs and their FRCs/FOs may establish the status of customers at the point of onboarding, rather than at the marketing stage. If the customer is assessed not to be an accredited investor or does not opt in to be treated as one, thereby falling out of the permissible clientele for cross-border arrangements, the customer cannot be onboarded.

29. When and how would the opt-in requirements apply in respect of accredited investors (AI) served under the Exemption Frameworks?

The AI opt-in requirements under the SF(COI)R will apply to customers under the Exemption Frameworks for all in-scope activities under both the SFA and FAA. Where customers have previously opted to be treated as an AI by the Singapore FI (in the case of the Branch Framework) or FRC (in the case of the FRC Framework) (whichever is applicable), the opt-ins would continue to be valid for the purpose of the FRC/Branch Framework (as applicable) unless the consent is withdrawn. Conversely, customers who have not opted to be treated as an AI by the Singapore FI or FRC (as applicable) would have to do so for them to be served under the FRC/Branch Framework.

Singapore FIs/FRCs will be given two years from the effective date of the Exemption Frameworks, i.e. by 9 October 2023, to obtain the opt-ins (if necessary). The SF(COI)R will be amended by 9 October 2023 such that the AI opt-in requirements will apply to customers under the Exemption Frameworks for all in-scope activities under both the SFA and FAA. Prior to 9 October 2023, FIs would need to ensure that customers served under the Exemption Frameworks meet the eligibility criteria of "accredited investor" under section 4A(1) of the SFA.

[Updated on 2 September 2022]

30. In respect of customers served under the FRC Framework, must opt-ins be given to and obtained by the FRC itself to fulfil the requirements under the SF(COI)R?

An FRC may appoint an agent (such as the Singapore FI) to obtain opt-ins from customers served under cross-border arrangements on behalf of the FRC. In this regard, such customers must be made aware that they are giving the opt-in to the FRC.

31. What do records of customers under the SFA FRC Notice, FAA FRC Notice, SFA FO Notice and FAA FO Notice refer to?

These should include information necessary for the identification of customers, such as the customer's full name, unique identification number, residential address, date of birth and nationality.

32. The Singapore FI is required to keep or maintain various records in respect of cross-border arrangements, as well as ensure access to records by MAS upon request. Can the Singapore FI rely on the FRC/FO to keep or maintain the various records in respect of cross-border arrangements? Can the requirement to ensure access to records by MAS be waived if there are legal or regulatory impediments in the relevant foreign jurisdiction(s)?

The record keeping requirements serve to ensure that there is a proper audit trail for regulated activities conducted as part of the cross-border arrangement. These records can be maintained and stored by the FRCs/FOs, subject to the Singapore FI having assessed and being satisfied that there are adequate policies and procedures for keeping these records, and that access to these records is available to MAS upon request. There will be no waiver of the requirement to ensure access to records by MAS, on the basis of legal or regulatory impediments in foreign jurisdictions. Given that the FRC/FOs are conducting regulated activities in Singapore, they are expected to adhere to the applicable requirements under Singapore law. Where there are legal or regulatory impediments in a foreign jurisdiction that prevent the provision of records to MAS, the Singapore FI or FRC/FO can consider several options, including: (i) structuring the arrangement and implementing processes to make the Singapore FI responsible for originating records and documents, and maintaining these records and documents in Singapore; (ii) requiring customers under the cross-border arrangement to waive their rights to confidentiality, in respect of the information relating to those customers and their transactions under the cross-border arrangement; or (iii) obtaining approval from the relevant foreign regulator to provide MAS with the relevant records under the cross-border arrangement when required, prior to commencing any such arrangement.

33. The register of foreign representatives must contain the name of each foreign representative and the FRC/FO that the representative is acting for. Is this limited to foreign representatives who travel to Singapore to conduct activities under the cross-border arrangement?

MAS expects Singapore FIs to be able to identify all foreign representatives who are carrying out regulated activities under the cross-border arrangement. Therefore, the names of all such foreign representatives and their respective FRC/FOs should be included in the register of foreign representatives, regardless of whether they travel to Singapore.

34. Must the register of foreign representatives be maintained by the Singapore FI?

There is no need for a separate register of foreign representatives to be maintained in Singapore, if there are centralised processes adopted by the group such that the register is maintained by the FRC/FO or other related entities. The requirement to “keep or cause to be kept” a register of foreign representatives is met if the Singapore FI is able to generate and provide an up-to-date list of all such representatives, upon MAS’ request.

35. Details and description of activities of foreign representatives are to be maintained in the register of foreign representatives. What should such details and description comprise?

These refer to information such as the means through which the foreign representative solicits/markets to/services/advises customers, products involved, number of customers targeted/served, and the estimated time spent on such regulated activities. Please note that the above are examples and not a prescriptive list. As the Singapore FI is responsible for maintaining oversight of the arrangement, FIs should consider for themselves the types of information that would be useful to oversee and monitor the cross-border arrangements.

[Updated on 2 September 2022]

36. What are the requirements relating to the solicitation of customers in Singapore by foreign representatives under a cross-border arrangement?

In general, ‘solicitation’ would involve influencing or inducing customers to purchase products or services, or enter into transactions. This is in contrast to providing factual information to customers, or introducing customers to a financial institution. Whether a specific activity or event involves ‘solicitation’ depends on the facts and circumstances. ‘Solicitation’ includes both solicitation of new customers for commencing a business relationship, as well as of existing customers for the offer of new products and services.

As required under the Exemption Frameworks, the Singapore FI must ensure that there are written policies and procedures to oversee the solicitation of customers in Singapore by foreign representatives. Such policies and procedures may involve having country-specific guidelines on the specific types of information that can be provided to prospects, and/or requiring marketing materials used by foreign representatives to be approved by the local compliance. Chaperoning, whether done physically or virtually, is one way of ensuring foreign representatives adhere to the applicable regulations when carrying out regulated activities under the arrangement, but is not mandatory, provided that there are other policies and procedures in place to ensure applicable regulations are adhered to. The Singapore FI may rely on existing global/group-level policies and procedures in this regard. However, the onus is on the Singapore FI to assess and identify the relevant conduct risks that may arise in the process of solicitation, and ensure that the policies and procedures implemented adequately address these risks. These examples serve as a guide on possible ways of exercising oversight and are not meant to be prescriptive or exhaustive.

37. Is there any specific retention period for records relating to cross-border arrangements under the Exemption Frameworks?

FIs should adopt the requirements of the jurisdiction which the FRC/FO operates from.

E AML/CFT Requirements

- 38. The FRC/FO AML Notices require the Singapore FI to ensure that there are adequate internal policies, procedures and controls, such that the performance of CDD measures by the FRC/FO on the FRC/FO's customers is consistent with AML/CFT requirements under the relevant AML/CFT Notice applicable to the Singapore FI. Does this mean that the Singapore FI needs to onboard the customers and conduct CDD on its own?**

Customers served under cross-border arrangements need not be onboarded by the Singapore FI. If a customer is defined as a customer of the Singapore FI under the relevant AML/CFT Notice, the Singapore FI has to comply with the requirements in the said Notice. If a customer is defined as a customer of the FRC/FO under the FRC/FO AML Notice, the Singapore FI only needs to ensure that there are policies in place to govern the conduct of CDD (such that it is done in a manner consistent with the relevant AML/CFT Notice applicable to the Singapore FI); CDD need not be conducted by the Singapore FI itself.

- 39. Can alternative standards such as those set by the FATF be applied in the conduct of CDD on customers of the FRC/FO?**

MAS will maintain the requirement of referencing the standards in the relevant AML/CFT Notices as a baseline to ensure that the same AML/CFT standards are applied in respect of all customers in Singapore, whether they are served by the Singapore FI or the FRC/FO. Accordingly, applying alternative standards such as the FATF standards would not meet the requirements under the FRC/FO AML Notices.

- 40. Does CDD have to be performed retrospectively for customers of existing arrangements covered under the Exemption Framework transition period, who are not also customers of the Singapore FI, as defined under the relevant AML/CFT Notice? If so, does CDD have to be performed before the Singapore FI notifies MAS of such arrangements?**

The FRC/FO AML Notices would apply for arrangements notified to MAS under the Exemption Frameworks. Existing arrangements approved under paragraph 9 of the Third Schedule to the SFA and/or paragraph 11 of the First Schedule to the FAA are currently subject to similar requirements, as such there should not be any gaps in the transition to the FRC Framework. For customers (who are not also customers of the Singapore FI, as defined under the relevant AML/CFT Notice) of other existing arrangements covered under the transition period, FIs may rectify any gaps in CDD measures for consistency with the FRC/FO AML Notices at the FRC/FO's customer periodic review cycle.

The Singapore FI must ensure that there are policies in place to govern the conduct of CDD (such that it is done in a manner consistent with the relevant AML/CFT Notice applicable to the Singapore FI) before it notifies MAS of such arrangements via Form FN by the end of the transition period.

For avoidance of doubt, where the customers of the FRC/FO are also customers of the Singapore FI (as defined in the relevant AML/CFT Notice), CDD should have been performed in accordance with the relevant AML/CFT Notice.

[Updated on 2 September 2022]

F Treatment of Existing Arrangements

- 41. What is the treatment for existing arrangements approved under paragraph 9 of the Third Schedule to the SFA and/or paragraph 11 of the First Schedule to the FAA, or exempted under regulation 65 of the LCB or regulation 32CA of the FAR? Can they be “grandfathered”?**

There will be a 12-month transitional period for FIs to notify MAS of such arrangements via Form FN and be subject to the FRC Framework. These arrangements will not be “grandfathered”. Existing approvals or exemptions pertaining to such arrangements will be invalidated upon notification under the FRC Framework. Accordingly, the existing conditions imposed on such arrangements will no longer apply, and will be replaced by the requirements under the FRC Framework.

- 42. Do we still need to submit an audit certification in respect of existing arrangements approved under paragraph 9 of the Third Schedule to the SFA and/or paragraph 11 of the First Schedule to the FAA after we have notified MAS of such arrangements via Form FN during the transition period?**

The Singapore FI is not required to submit an audit certification in respect of its existing arrangements approved under paragraph 9 of the Third Schedule to the SFA and/or paragraph 11 of the First Schedule to the FAA, if it notifies under the Exemption Framework before the certification under the existing framework falls due. Nevertheless, MAS may request audit certifications to cover any gap periods if the need arises. Thereafter, as per the requirements under the FRC Framework, the Singapore FI is required to submit an audit certification as part of their annual reporting (Form FR) to MAS. Please refer to Q22 on the timeline for the first Form FR submission.

[Updated on 2 September 2022]

- 43. What is the treatment for FOs dealing in or advising on specified contracts under an arrangement with the Singapore Office, and relying on the transitional arrangement under regulation 60 or 61 of the LCB and/or regulation 40BB or 40BC of the FAR which will end on 8 October 2021?**

Such FOs will be given a 12-month transitional period to notify MAS of such arrangements via Form FN and be subject to the Branch Framework.

G Miscellaneous

- 44. We are unable to meet some of the requirements under the FRC or Branch Framework. Can we seek a waiver or exemption in respect of such requirements?**

MAS will not be granting case-by-case waivers and exemptions in respect of specific requirements under the Exemption Frameworks. Singapore FIs and their FRC/FOs ought to have assessed that they can meet the requirements under the relevant framework before commencing the arrangement.

- 45. Can we still apply to MAS for approval under paragraph 9 of the Third Schedule to the SFA and/or paragraph 11 of the First Schedule to the FAA after 9 October 2021?**

MAS will not be approving such applications from 9 October 2021 onwards. FIs should notify MAS of new cross-border arrangements under the FRC Framework or Branch Framework (as applicable) on an ex-post basis if all applicable requirements are met.

- 46. In the case where research analyses or reports are provided to institutional investors under the arrangement, how does the exemption interact with the separate licensing exemption in regulation 27(1)(e) of the FAR for providing financial advisory services to institutional investors?**

The exemption under the FA(ECBA)(FO)R with respect to the specific activity of advising others by issuing or promulgating any research analysis or research reports is an exemption for FOs of a licensed or exempt financial adviser under a cross-border arrangement subject to conditions and does not have clientele restriction.

In contrast, regulation 27(1)(e) of the FAR exempts any person from the requirement to hold a financial adviser's licence under section 23(1)f of the FAA for all or any types of financial advisory services in Singapore where the financial advisory services are provided only to institutional investors.

For an FO which issues or promulgates research reports only to institutional investors, the outcome is consistent under the FA(ECBA)(FO)R and regulation 27(1)(e) of the FAR. For issuing or promulgating research reports only to institutional investors, the FO is exempted from licensing and there is no need for the legal responsibility condition or to have a Singapore point of contact.