

Financial Advisers (Exemption for Cross-Border Arrangements) (Foreign Related Corporations) Regulations 2021

Table of Contents

Enacting Formula

1 Citation and commencement

2 Definitions

3 Forms

4 Exemption for FRCs of specified financial advisers carrying on qualifying businesses providing certain financial advisory services under cross-border arrangements, and their foreign representatives

5 Exemption for FRCs of specified financial advisers previously carrying on qualifying businesses providing certain financial advisory services under cross-border arrangements, and their foreign representatives

6 Circumstances for exemption

No. S 764

FINANCIAL ADVISERS ACT (CHAPTER 110)

FINANCIAL ADVISERS (EXEMPTION FOR CROSS-BORDER ARRANGEMENTS) (FOREIGN RELATED CORPORATIONS)

REGULATIONS 2021

In exercise of the powers conferred by section 100(1) of the Financial Advisers Act, the Monetary Authority of Singapore makes the following Regulations:

Citation and commencement

1. These Regulations are the Financial Advisers (Exemption for Cross-Border Arrangements) (Foreign Related Corporations) Regulations 2021 and come into operation on 9 October 2021.

Definitions

2.—(1) In these Regulations, unless the context otherwise requires —

“accredited investor” has the meaning given by section 4A(1)(a) of the Securities and Futures Act (Cap. 289);

“AML/CFT requirement” or “Anti-Money Laundering/Countering the Financing of Terrorism requirement” means a law or regulatory requirement of a foreign jurisdiction for the detection or prevention of money laundering or the financing of terrorism;

“cross-border arrangement” means an arrangement between an FRC of a specified financial adviser and the specified financial adviser under which the FRC carries on a qualifying business;

“derivatives contract” has the meaning given by section 2(1) of the Securities and Futures Act;

“exchange-traded derivatives contract” has the meaning given by section 2(1) of the Securities and Futures Act;

“expert investor” has the meaning given by section 4A(1)(b) of the Securities and Futures Act;

“FATF” means the intergovernmental body known as the Financial Action Task Force;

“foreign company” has the meaning given by section 4(1) of the Companies Act (Cap. 50);

“foreign exchange OTC derivatives contract” means an OTC derivatives contract entered into on a margin basis the value of which is determined by reference to, is derived from, or varies by reference to —

(a) the value or amount of any currency or currency index; or

- (b) fluctuations in the values or amounts of any currency or currency index;

“foreign jurisdiction” means a country or jurisdiction other than Singapore;

“foreign regulatory authority” means —

- (a) an authority of a foreign jurisdiction, exercising any function that corresponds to a regulatory function of the Authority under the Monetary Authority of Singapore Act (Cap. 186); or
- (b) a non-governmental organisation exercising any function that corresponds to a regulatory function of the Authority under the Monetary Authority of Singapore Act under the law of, or by delegation from an authority of, a foreign jurisdiction;

“foreign representative”, in relation to an FRC of a specified financial adviser, means a representative of the FRC who performs on behalf of the FRC any financial advisory service in respect of which the FRC is carrying on a qualifying business under a cross-border arrangement;

“FRC” or “foreign related corporation”, in relation to a specified financial adviser, means a foreign company that is a related corporation of the specified financial adviser;

“institutional investor” has the meaning given by section 4A(1)(c) of the Securities and Futures Act;

“on a margin basis”, in relation to a contract, means the entering of a contract by 2 parties where one party provides to the other party (whether directly or indirectly through such party’s agent) money, securities, property or other collateral which represents only a part of the value of the contract;

“over-the-counter derivatives contract” or “OTC derivatives contract” means a derivatives contract other than an exchange-traded derivatives contract;

“specified financial adviser” means —

- (a) a licensed financial adviser; or
- (b) an exempt financial adviser mentioned in section 23(1)(a), (b), (c), (d) or (e) of the Act;

“specified investment product” means —

- (a) any specified OTC derivatives contract;
- (b) any foreign exchange OTC derivatives contract arranged by —

- (i) any bank that holds a licence granted under section 7 or 79 of the Banking Act (Cap. 19); or
 - (ii) any merchant bank that holds a merchant bank licence, or is treated as having been granted a merchant bank licence, under the Banking Act; or
- (c) any spot foreign exchange contract for the purposes of leveraged foreign exchange trading arranged by —
 - (i) any bank that holds a licence granted under section 7 or 79 of the Banking Act; or
 - (ii) any merchant bank that holds a merchant bank licence, or is treated as having been granted a merchant bank licence, under the Banking Act;

“specified OTC derivatives contract” means an OTC derivatives contract the value of which is determined by reference to, is derived from, or varies by reference to —

- (a) the value or amount of any item other than any —
 - (i) securities;
 - (ii) securities index;
 - (iii) currency; or
 - (iv) currency index; or
- (b) fluctuations in the values or amounts of one or more items other than any —
 - (i) securities;
 - (ii) securities index;
 - (iii) currency; or
 - (iv) currency index;

“spot foreign exchange contract” has the meaning given by section 2(1) of the Securities and Futures Act.

(2) For the purposes of these Regulations, “qualifying business” —