

Securities and Futures (Exemption for Cross-Border Arrangements) (Foreign Offices) Regulations 2021

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No. S 759

**SECURITIES AND FUTURES ACT
(CHAPTER 289)**

**SECURITIES AND FUTURES
(EXEMPTION FOR CROSS-BORDER ARRANGEMENTS)
(FOREIGN OFFICES) REGULATIONS 2021**

In exercise of the powers conferred by section 337(1) of the Securities and Futures Act, the Monetary Authority of Singapore makes the following Regulations:

Citation and commencement

1. These Regulations are the Securities and Futures (Exemption for Cross-Border Arrangements) (Foreign Offices) Regulations 2021 and come into operation on 9 October 2021.

Definitions

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

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

“block futures contract” means a futures contract which is —

- (a) privately negotiated between 2 parties in accordance with the business rules or practices of an organised market; and
- (b) entered into between those 2 parties in accordance with the business rules or practices of that organised market;

“cross-border arrangement” means an arrangement implemented by a specified

exempt person or specified licence holder under which the specified exempt person or specified licence holder (as the case may be) carries on (through a foreign office) a qualifying business;

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

“foreign exchange OTC derivatives contract” means an OTC derivatives contract —

- (a) which is entered into by one party providing to the other party money, securities, property or other collateral which represents only a part of the value of the contract; and
- (b) the value of which is determined by reference to, is derived from, or varies by reference to —
 - (i) the value or amount of any currency or currency index; or
 - (ii) fluctuations in the values or amounts of any currency or currency index;

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

“foreign office”, in relation to a specified licence holder or specified exempt person, means an office (including the head office) or a branch of the specified licence holder or the specified exempt person (as the case may be) that is established outside 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 a specified licence holder or specified exempt person, means a representative of the specified licence holder or specified exempt person (as the case may be), who —

- (a) is ordinarily resident outside Singapore;
- (b) is not an appointed representative, a provisional representative or a temporary representative of the specified licence holder or specified

exempt person, as the case may be; and

- (c) carries out for a foreign office of the specified licence holder or specified exempt person (as the case may be) any regulated activity in respect of which the specified licence holder or specified exempt person (as the case may be) is carrying on (through the foreign office) a qualifying business under a cross-border arrangement;

“over-the-counter derivatives contract” or “OTC derivatives contract” means a derivatives contract that is not an exchange-traded derivatives contract;

“specified exempt person” means a person who is exempt from the requirement to hold a capital markets services licence under —

- (a) section 99(1)(a), (b), (c) or (d) of the Act;
- (b) paragraph 3(1)(d) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg 10); or
- (c) paragraph 3A(1)(d) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations;

“specified foreign exchange contract” or “specified FX contract” means any of the following:

- (a) a foreign exchange OTC derivatives contract that is arranged by any bank or merchant bank;
- (b) a spot foreign exchange contract for the purposes of leveraged foreign exchange trading that is arranged by any bank or merchant bank;

“specified licence holder” means a holder of a capital markets services licence, other than a holder of a capital markets services licence for fund management whose licence is limited to the carrying on of a business in the management of portfolios of specified products on behalf of any venture capital fund;

“specified OTC derivatives contract” means an OTC derivatives contract that —

- (a) is not a securities-based derivatives contract; and
- (b) is not a foreign exchange OTC derivatives contract;

“venture capital fund” has the meaning given by regulation 14(8) of the Securities and Futures (Licensing and Conduct of Business) Regulations.

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

- (a) in relation to a specified exempt person who is exempt from the requirement to hold a capital markets services licence under

section 99(1)(a), (b), (c) or (d) of the Act for any regulated activity (other than dealing in capital markets products) — means a business in the regulated activity in respect of which the specified exempt person has —

- (i) lodged with the Authority —
 - (A) a notice under regulation 14(4)(a) of the Securities and Futures (Licensing and Conduct of Business) Regulations as in force immediately before 8 October 2018; or
 - (B) a notice under regulation 14(4)(a)(i) of the Securities and Futures (Licensing and Conduct of Business) Regulations; and
 - (ii) not lodged a notice under regulation 14(4)(b) of the Securities and Futures (Licensing and Conduct of Business) Regulations as in force before, on or after 8 October 2018;
- (b) in relation to a specified exempt person who is exempt from the requirement to hold a capital markets services licence under section 99(1)(a), (b) or (c) of the Act for dealing in capital markets products that are of one or more types (called in this sub-paragraph the relevant capital markets services products) — means a business in all or any of the following regulated activities:
- (i) dealing in capital markets products in respect of the relevant capital markets products, where the specified exempt person has, in respect of that regulated activity and those relevant capital markets products —
 - (A) lodged with the Authority —
 - (AA) a notice under regulation 14(4)(a) of the Securities and Futures (Licensing and Conduct of Business) Regulations as in force immediately before 8 October 2018; or
 - (AB) a notice under regulation 14(4)(a)(i) or (ii), (aa) or (ab) of the Securities and Futures (Licensing and Conduct of Business) Regulations; and
 - (B) not lodged a notice under regulation 14(4)(b) of the Securities and Futures (Licensing and Conduct of