

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

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No. S 760

SECURITIES AND FUTURES ACT (CHAPTER 289)

SECURITIES AND FUTURES (EXEMPTION FOR CROSS-BORDER ARRANGEMENTS) (FOREIGN RELATED CORPORATIONS) 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 Related Corporations) 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 means a law or regulatory requirement of a 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 between an FRC of a specified person and the specified person under which the FRC carries on 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 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 person, means a representative of the FRC who carries out for the FRC any regulated activity 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 person, means a foreign company that is a related corporation of the specified person;

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

“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;

“specified person” means —

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

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

(b) a specified licence holder;

“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 an FRC of a specified 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 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 an FRC of a specified 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 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: