

Securities and Futures (Trading of Derivatives Contracts) Regulations 2019

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No. S 134

SECURITIES AND FUTURES ACT (CHAPTER 289)

SECURITIES AND FUTURES (TRADING OF DERIVATIVES CONTRACTS) REGULATIONS 2019

In exercise of the powers conferred by sections 129N and 341 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 (Trading of Derivatives Contracts) Regulations 2019 and come into operation on 14 March 2019.

Definitions

2. In these Regulations —

“aggregate outstanding notional amount”, in relation to a bank that holds a licence granted under section 7 or 79 of the Banking Act (Cap. 19), means the aggregate of the notional amounts of every derivatives contract —

- (a) which is not an exchange-traded derivatives contract;
- (b) to which the bank is a party;
- (c) which is booked in Singapore; and
- (d) which is outstanding;

[S 467/2021 wef 01/07/2021]

“booked in Singapore”, in relation to a derivatives contract, means the entry of the derivatives contract on the balance sheet or the profit and loss accounts of a person where —

- (a) the person is a party to the derivatives contract;
- (b) the person’s place of business is in Singapore; and
- (c) the balance sheet or the profit and loss accounts relate to the person’s business in Singapore;

“outstanding”, in relation to a derivatives contract, refers to a derivatives contract that —

- (a) has not expired; and
- (b) has not been terminated in accordance with the terms and conditions of the derivatives contract or by agreement between the parties to the derivatives contract;

“place of business”, in relation to a party to a derivatives contract, means a head or main office, a branch, a representative office or any other office of the party.

Specified derivatives contract

3. Any derivatives contract executed on or after 1 April 2020 that is set out in the Schedule is prescribed for the purposes of the definition of “specified derivatives contract” in section 129I of the Act.

Exemption from section 129J of Act

4. The following specified persons are exempt from section 129J of the Act:

- (a) any bank that holds a licence granted under section 7 or 79 of the Banking Act whose aggregate outstanding notional amount does not exceed \$20,000,000,000 —
- (i) for the last day of the most recently completed quarter; and
 - (ii) for the last day of each of the 3 consecutive quarters immediately preceding that quarter;
- [S 467/2021 wef 01/07/2021]*
- (b) any bank that holds a licence granted under section 7 or 79 of the Banking Act that has been carrying on business for less than one year;
- [S 467/2021 wef 01/07/2021]*
- (c) any merchant bank that holds a merchant bank licence, or is treated as having been granted a merchant bank licence, under the Banking Act;
- [S 467/2021 wef 01/07/2021]*
- (d) any finance company licensed under the Finance Companies Act (Cap. 108);
- (e) any insurer licensed under the Insurance Act (Cap. 142);
- (f) any holder of a capital markets services licence.

Keeping of books and other information

5.—(1) Every specified person who is not exempt under regulation 4 must ensure that any book that relates to a specified derivatives contract or to a transaction in a specified derivatives contract is kept until at least 5 years after the last date of the expiry or termination of the specified derivatives contract or transaction to which the book relates.

(2) Every specified person who is not exempt under regulation 4 must ensure that any information as may be required by the Authority for the purposes of the Act is kept until at least 5 years after the last date of the expiry or termination of a contract, an agreement or a transaction to which the information relates.

(3) A specified person who contravenes paragraph (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$50,000 and, in the case of a continuing offence, to a further fine not exceeding \$5,000 for every day or part of a day during which the offence continues after conviction.

(4) Section 333(1) of the Act does not apply to any offence mentioned in paragraph (3).

THE SCHEDULE

Regulation 3

SPECIFIED DERIVATIVES CONTRACT

1. Subject to paragraph 2, a derivatives contract executed on or after 1 April 2020 is a specified derivatives contract if it meets all of the following criteria:

- (a) the derivatives contract is not an exchange-traded derivatives contract;
- (b) the parties to the derivatives contract are not related corporations;
- (c) each party to the derivatives contract executes the derivatives contract through that party's office located in Singapore (whether a head office or branch office);
- (d) the parties to the derivatives contract are specified persons who are not, under regulation 4, exempt from section 129J of the Act;
- (e) the derivatives contract is a fixed-to-floating interest rate swap contract that has all of the features specified for an item in a row of Table 1.

2. Despite paragraph 1, a derivatives contract is not a specified derivatives contract —

- (a) if —
 - (i) the derivatives contract is a capital markets product that is purchased or sold as part of a package transaction;
 - (ii) the package transaction mentioned in sub-paragraph (i) does not consist solely of derivatives contracts that meet all of the criteria mentioned in paragraph 1; and
 - (iii) the package transaction mentioned in sub-paragraph (i) does not consist solely of —
 - (A) derivatives contracts that —
 - (AA) meet all of the criteria mentioned in paragraph 1; and
 - (AB) are denominated in the same currency as each other and the bonds mentioned in sub-paragraph (B);

- and
- (B) bonds that —
- (BA) are issued by any central government of any country; and
 - (BB) are denominated in the same currency as each other and the derivatives contracts mentioned in sub-paragraph (A); or
- (b) if the derivatives contract is entered into —
- (i) as a result of a portfolio compression cycle; and
 - (ii) with a participant in the portfolio compression cycle that was a party to one or more of the compressed derivatives contracts under the cycle.

3. In this Schedule —

“compressed derivatives contract”, in relation to a portfolio compression cycle, means a derivatives contract that was modified, or terminated and replaced, under the cycle;

“constant notional amount”, as a specified feature of a derivatives contract, refers to whether or not the notional amount of the derivatives contract is constant throughout the tenor of the derivatives contract;

“features”, in relation to a fixed-to-floating interest rate swap contract, means the following:

- (a) the settlement currency of the fixed-to-floating interest rate swap contract is the currency as specified in the second column of Table 1;
- (b) the underlying thing of the fixed-to-floating interest rate swap contract is the floating interest rate index as specified in the third column of Table 1;
- (c) the tenor of the fixed-to-floating interest rate swap contract is as specified in the fourth column of Table 1;
- (d) whether or not the fixed-to-floating interest rate swap contract has optionality is as specified in the fifth column of Table 1;
- (e) whether or not the fixed-to-floating interest rate swap contract has a constant notional amount is as specified in the sixth