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### SECURITIES AND FUTURES ACT (CHAPTER 289)

#### SECURITIES AND FUTURES (OFFERS OF INVESTMENTS) (COLLECTIVE INVESTMENT SCHEMES) (AMENDMENT NO. 2) REGULATIONS 2018

In exercise of the powers conferred by sections 337 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 (Offers of Investments) (Collective Investment Schemes) (Amendment No. 2) Regulations 2018 and come into operation on 8 October 2018.

#### **Amendment of regulation 2**

2. Regulation 2(1) of the Securities and Futures (Offers of Investments) (Collective Investment Schemes) Regulations 2005 (G.N. No. S 602/2005) (called in these Regulations the principal Regulations) is amended by deleting the definition of “restricted scheme” and substituting the following definition:

““restricted scheme” means a collective investment scheme mentioned in section 305(1) or (2) of the Act;”.

#### **Amendment of regulation 3**

3. Regulation 3 of the principal Regulations is amended —

- (a) by deleting “<https://opera.mas.gov.sg>” in paragraphs (1) and (1C) and substituting in each case “<https://eservices.mas.gov.sg/opera>”;
- (b) by deleting the words “(under “Regulations and Financial Stability”, “Regulations, Guidance and Licensing”,

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“Securities, Futures and Fund Management”)” in paragraph (1A); and

(c) by deleting paragraph (1B).

### **Amendment of regulation 8**

4. Regulation 8(4) of the principal Regulations is amended —

(a) by deleting the words “a securities exchange” in sub-paragraphs (a), (b) and (c)(i) and (ii) and substituting in each case the words “an approved exchange”; and

(b) by deleting the words “securities exchanges” in sub-paragraph (d)(i) and (ii) and substituting in each case the words “approved exchanges”.

### **Amendment of regulation 9**

5. Regulation 9 of the principal Regulations is amended by deleting the words “marketable securities,” in paragraph (b) and substituting the words “securities, securities-based derivatives, units in a collective investment scheme,”.

### **New regulation 10B**

6. The principal Regulations are amended by inserting, immediately after regulation 10A, the following regulation:

#### **“Criteria for recognition**

**10B.** For the purposes of section 287(2)(b) of the Act, the criteria prescribed by which the Authority may have regard to in determining whether to recognise a collective investment scheme is whether the following, collectively or individually, afford to investors in Singapore protection at least equivalent to that provided to them under comparable authorised schemes under Division 2 of Part XIII of the Act:

(a) the investment policy of the scheme;

(b) the provisions contained in the trust deed or the constituent documents of the scheme;

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- (c) the roles, responsibilities and powers of the trustee or a person in an equivalent capacity, as set out in the trust deed or the constituent documents of the scheme;
  - (d) the laws and practices of the jurisdiction under which the scheme is constituted.”.

### **Amendment of regulation 13A**

7. Regulation 13A(2) of the principal Regulations is amended by deleting the words “180 millimetres” in sub-paragraph (a)(i)(B)(BB) and (ii)(B)(BB) and substituting in each case the words “18 millimetres”.

### **Amendment of regulation 14**

8. Regulation 14 of the principal Regulations is amended —

(a) by deleting sub-paragraph (b) of paragraph (1) and substituting the following sub-paragraph:

“(b) if the person making the offer of units in a collective investment scheme is not the responsible person for the scheme —

(i) in the case where the responsible person is controlled by —

(A) the person making the offer;

(B) one or more of the related parties of the person making the offer; or

(C) the person making the offer and one or more of his related parties,

by the persons mentioned in paragraph (1A); or

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(ii) in any other case —

(A) if the person making the offer is an entity, by every director or equivalent person of that entity; or

(B) if the person making the offer is an individual, by the individual or a person authorised by the individual in writing.”;

(b) by inserting, immediately after paragraph (1), the following paragraph:

“(1A) For the purposes of paragraph (1)(b)(i), the persons are —

(a) every director or equivalent person of the responsible person and every person who is named in the supplementary document or replacement document to be lodged with the Authority as a proposed director or an equivalent person of the responsible person; and

(b) if —

(i) the person making the offer is an entity, by every director or equivalent person of that entity; or

(ii) the person making the offer is an individual, by the individual or a person authorised by the individual in writing.”; and

(c) by inserting, immediately after the words “paragraph (1)” in paragraphs (2) and (3), the words “, read with paragraph (1A),”.

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**Amendment of regulation 16**

9. Regulation 16 of the principal Regulations is amended by deleting “<https://opera.mas.gov.sg>” in paragraphs (1)(b) and (3)(b) and substituting in each case “<https://eservices.mas.gov.sg/opera>”.

**Amendment of regulation 19C**

10. Regulation 19C(2) of the principal Regulations is amended by deleting the words “regulation 19B(1)” in sub-paragraph (a)(ii) and substituting the words “regulation 22(1)”.

**New regulation 21**

11. The principal Regulations are amended by inserting, immediately after regulation 20, the following:

**“Requirements of advertisement or publication**

21. For the purposes of section 300(3C) of the Act, the requirements of an advertisement or a publication in respect of an offer or intended offer of units in a collective investment scheme that is disseminated or published on or after 8 October 2018 but before 10 December 2018 are as follows:

- (a) the advertisement or a publication (as the case may be) must not contain any information —
  - (i) that is false or misleading; or
  - (ii) that cannot be justified on the facts known to the person responsible for the advertisement or publication (as the case may be),  
at the time the advertisement or publication (as the case may be) is published;
- (b) the advertisement or publication (as the case may be) must not, whether by the prominence given to specific information or otherwise, create a false or misleading impression as to the collective investment scheme in question;
- (c) where the advertisement or publication (as the case may be) is in a visual form, the information required