

**Securities and Futures (Offers of Investments) (Collective Investment Schemes)
(Amendment) Regulations 2009**

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No. S 420

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

**SECURITIES AND FUTURES (OFFERS OF INVESTMENTS) (COLLECTIVE
INVESTMENT SCHEMES) (AMENDMENT) REGULATIONS 2009**

In exercise of the powers conferred by sections 305 and 341 of the Securities and Futures Act, the Monetary Authority of Singapore hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Securities and Futures (Offers of Investments) (Collective Investment Schemes) (Amendment) Regulations 2009 and shall come into operation on 1st October 2009.

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) (referred to in these Regulations as the principal Regulations) is amended —

- (a) by deleting the definitions of “restricted authorised scheme” and “restricted recognised scheme” and substituting the following definition:

““restricted foreign scheme” means a restricted scheme constituted outside Singapore which is in the list of restricted schemes maintained by the Authority under the Sixth Schedule;” and

- (b) by inserting, immediately after the definition of “restricted scheme”, the following definition:

““restricted Singapore scheme” means a restricted scheme constituted in Singapore which is in the list of restricted schemes maintained by the Authority under the Sixth Schedule;”.

Deletion and substitution of Part IV

3. Part IV of the principal Regulations is deleted and the following Part substituted therefor:

“PART IV

NOTIFICATION OF OFFERS OF UNITS IN RESTRICTED SCHEMES

Extent to which Subdivision (2) in Division 2 of Part XIII of Act applies to restricted schemes

32. For the purposes of section 305(1) and (2) of the Act —

- (a) sections 285 to 288, 294 and 295 of the Act shall not apply to a restricted scheme except as modified and set out in paragraphs 1 to 8 of the Sixth Schedule;

- (b) sections 289 to 292 of the Act shall not apply to a restricted scheme constituted in Singapore except with the modification that a reference to section 286 of the Act shall be read as a reference to paragraph 3 of the Sixth Schedule; and
- (c) section 293 of the Act shall apply to a restricted scheme.”.

Deletion of regulation 41

4. Regulation 41 of the principal Regulations is deleted.

Amendment of First Schedule

5. Items 10 and 11 in the First Schedule to the principal Regulations are deleted and the following items substituted therefor:

“

10. Paragraph 2(1) of the Sixth Schedule to these Regulations	For every notification of an offer of units in a restricted scheme submitted to the Authority.	\$250
11. Paragraph 6 of the Sixth Schedule to these Regulations	For every annual declaration in respect of a restricted Singapore scheme or restricted foreign scheme lodged with the Authority.	\$50

”.

Deletion and substitution of Sixth Schedule

6. The Sixth Schedule to the principal Regulations is deleted and the following Schedule substituted therefor:

“SIXTH SCHEDULE

Regulations 2(1) and 32

MODIFIED PROVISIONS FOR RESTRICTED SCHEMES

Offers of units in restricted schemes

- 1.—(1) No person shall make an offer of units in a restricted scheme unless it is a restricted

Singapore scheme or a restricted foreign scheme.

(2) Any person who makes an offer of units in a restricted Singapore scheme or a restricted foreign scheme shall inform, in writing, the persons to whom the offer is made that —

- (a) the scheme is not authorised or recognised by the Authority and units in the scheme are not allowed to be offered to the retail public; and
- (b) any written material issued in connection with the offer is not a prospectus as defined in the Act and, accordingly, statutory liability under the Act in relation to the content of prospectuses would not apply.

(3) Any person who contravenes sub-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 thereof during which the offence continues after conviction.

List of restricted schemes

2.—(1) A person who wishes to make an offer of units in a restricted scheme that has not been entered into the list of restricted schemes maintained by the Authority shall submit a notification of the offer to the Authority in such form and manner as may be specified in the Authority's Internet website at <http://www.mas.gov.sg> or as the Authority may, by notice in writing, specify.

(2) Every notification referred to in sub-paragraph (1) shall be accompanied by such information or record as the Authority may require.

(3) The Authority may, upon receipt of the notification referred to in sub-paragraph (1) and in accordance with paragraph 3 or 4 (as the case may be), enter the restricted scheme into the list of restricted schemes maintained by the Authority.

(4) The Authority may publish for public information, in such manner as it considers appropriate —

- (a) the list of restricted schemes maintained by the Authority; and
- (b) the particulars of any restricted scheme that has been entered in the list of restricted schemes.

Restricted Singapore schemes

3.—(1) The Authority shall not enter a restricted scheme which is constituted in Singapore into the list of restricted schemes maintained by the Authority unless the Authority is of the opinion that the following requirements are satisfied:

- (a) there is a manager for the scheme which is —
 - (i) licensed or regulated to carry out fund management activities in the jurisdiction of its principal place of business; or
 - (ii) a public company that is exempted from the requirement to hold a capital markets services licence to carry on business in fund management under regulation 5(1)(d) of the Second Schedule to the Securities and Futures

(Licensing and Conduct of Business) Regulations (Rg 10);

- (b) the manager for the scheme is a fit and proper person, and in considering if a person satisfies this requirement, the Authority may take into account any matter relating to —
- (i) any person who is or will be employed by or associated with the manager;
 - (ii) any person exercising influence over the manager; or
 - (iii) any person exercising influence over a related corporation of the manager; and
- (c) in the case of a scheme constituted as a unit trust, there is a trustee for the scheme approved under section 289 of the Act.
- (2) The Authority may enter a restricted scheme which is constituted in Singapore, and which is not constituted as a unit trust, into the list of restricted schemes subject to such conditions or restrictions as it thinks fit.
- (3) The Authority may, at any time, by notice in writing to the responsible person for a restricted Singapore scheme which is not constituted as a unit trust —
- (a) vary any condition or restriction imposed under sub-paragraph (2); or
 - (b) impose such further condition or restriction as it may think fit.
- (4) The Authority may refuse to enter a restricted scheme which is constituted in Singapore into the list of restricted schemes where it appears to the Authority that it is not in the public interest to do so.
- (5) The Authority shall not refuse to enter a restricted scheme which is constituted in Singapore into the list of restricted schemes without giving the person who submitted the notification of the offer of units in the scheme an opportunity to be heard, except that an opportunity to be heard need not be given if the refusal is on the ground that it is not in the public interest to enter the scheme into the list of restricted schemes on the basis of any of the following circumstances:
- (a) any person who wishes to make the offer (being an entity), the responsible person or the scheme itself is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;
 - (b) any person who wishes to make the offer (being an individual) is an undischarged bankrupt, whether in Singapore or elsewhere;
 - (c) a receiver, a receiver and manager or an equivalent person has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of any person who wishes to make the offer (being an entity), the responsible person or the scheme.
- (6) The responsible person for a restricted scheme which is constituted in Singapore may,