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FINANCIAL HOLDING COMPANIES ACT 2013

FINANCIAL HOLDING COMPANIES REGULATIONS 2022

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In exercise of the powers conferred by sections 30(1) and (3), 31(8), 32(3) and (6) and 59(1) of the Financial Holding Companies Act 2013, the Monetary Authority of Singapore makes the following Regulations:

PART 1**PRELIMINARY****Citation and commencement**

1. These Regulations are the Financial Holding Companies Regulations 2022 and come into operation on 30 June 2022.

Definitions

2. In these Regulations, unless the context otherwise requires —
 - “designated FHC” or “DFHC” means a designated financial holding company;
 - “FHC” means a financial holding company;
 - “major stake”, in relation to a DFHC, has the meaning given by section 31(10) of the Act;
 - “subsidiary”, other than in relation to an FHC, has the meaning given by section 5 of the Companies Act 1967.

PART 2
EQUITY INVESTMENTS AND IMMOVABLE PROPERTY

Division 1 — Preliminary

Definitions of this Part

3. In this Part —

“banking business” has the meaning given by section 2(1) of the Banking Act 1970;

“banking group” —

(a) in relation to a bank, means the bank, its subsidiaries and any other company treated as part of the bank’s group of companies according to Accounting Standards; or

(b) in relation to an overseas bank, means the overseas bank, its subsidiaries and any other company treated as part of the overseas bank’s group of companies according to Accounting Standards;

“eligible total capital”, in relation to the FHC group of a predominantly banking DFHC, means the amount of capital adequacy maintained by the predominantly banking DFHC of the FHC group for the purposes of section 36 of the Act;

“foreign country” means any country or territory other than Singapore;

“overseas bank” means any entity that is —

(a) established, formed or incorporated in a foreign country;

(b) approved, licensed, registered or otherwise regulated by a regulatory authority of the foreign country to carry on banking business under the laws of the foreign country; and

(c) not licensed under the Banking Act 1970 to carry on banking business in Singapore;

“predominantly banking DFHC” means a DFHC that has at least one subsidiary that is a bank, an overseas bank, or a company that is a part of any banking group (each called in this definition a relevant subsidiary) —

- (a) whose relevant subsidiary accounts, or whose relevant subsidiaries in the aggregate account, for more than 50% of the assets, capital funds, liabilities or revenue of the FHC group of the designated FHC; or
- (b) to which the Authority has notified in writing that the Authority considers the business of the relevant subsidiary to be significant to the FHC group of the DFHC;

“regulatory authority”, in relation to a foreign country, means an authority of the foreign country exercising any function that corresponds to a regulatory function of the Authority under the Banking Act 1970.

Division 2 — Equity investments

Prescribed limit on equity investments, etc.

4.—(1) For the purposes of section 30(1) of the Act, the amount of equity investment in a single company which a predominantly banking DFHC may acquire or hold must not exceed in the aggregate 2% of the eligible total capital of the FHC group of the predominantly banking DFHC.

(2) When calculating the amount of equity investment in a single company which a predominantly banking DFHC may acquire or hold for the purposes of compliance with section 30(1) of the Act, any relevant equity investment that is acquired or held by any bank within the FHC group of the predominantly banking DFHC is excluded, during the specified period, from the calculation.

(3) In this regulation —

“relevant equity investment” means any equity investment in a single company acquired or held by any bank when acting as a stabilising bank in relation to an offer of securities issued by

the company in the circumstances specified in regulation 6B(1)(a) and (b) of the Banking Regulations (Rg 5);

“specified period” and “stabilising bank” have the meanings given by regulation 6B(2) of the Banking Regulations.

Valuation of equity investments

5. For the purposes of section 30 of the Act, in relation to a predominantly banking DFHC, the valuation of any equity investment in a single company is —

- (a) in the case where revaluation gains with respect to the equity investment are permitted by the Authority under section 36 of the Act to be included in the computation of the eligible total capital of the FHC group of a predominantly banking DFHC — the sum of —
 - (i) the cost of the equity investment; and
 - (ii) the revaluation gains with respect to the equity investment; and
- (b) in any other case — the cost of the equity investment less revaluation losses and diminution in value with respect to the equity investment, if any.

Division 3 — Immovable property

Limit on interests in or rights over immovable property

6.—(1) For the purposes of section 32(3) of the Act, the FHC group of a predominantly banking DFHC must not acquire or hold interests in or rights over immovable property, wherever situated, the value of which exceeds in the aggregate 20% of the eligible total capital of the FHC group.

(2) Despite paragraph (1), the Authority may, if it considers appropriate in the particular circumstances of a predominantly banking DFHC or its FHC group, allow the interests in or rights over immovable property to exceed in the aggregate 20% of the

eligible total capital of the FHC group for such period, and subject to such conditions, as the Authority may determine.

Valuation of immovable property

7. For the purposes of section 32 of the Act, in respect of a DFHC, the valuation of immovable property is —

- (a) in the case where revaluation gains with respect to immovable property are permitted by the Authority under section 36 of the Act to be included in the computation of the eligible total capital of the FHC group of a predominantly banking DFHC — the sum of —
 - (i) the cost of the immovable property; and
 - (ii) 45% of revaluation gains with respect to the immovable property; and
- (b) in any other case — the cost of the immovable property less revaluation losses and diminution in value with respect to the immovable property, if any.

PART 3

MAJOR STAKES

Division 1 — Exclusion of certain major stakes

Exclusion of certain interests from section 31 of Act under section 31(7)(c) of Act

8. Section 31 of the Act does not apply to any major stake in any company that is acquired or held indirectly through a subsidiary of a DFHC if —

- (a) in the case where the subsidiary is a bank incorporated in Singapore —
 - (i) the bank has obtained the approval of the Authority under section 32 of the Banking Act 1970 to acquire or hold a major stake in the company; or

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- (ii) the acquisition or holding of a major stake by the bank in the company has been excluded from the operation of section 32 of the Banking Act 1970; and
 - (b) in the case where the subsidiary is a licensed insurer incorporated, formed or established in Singapore —
 - (i) the licensed insurer has obtained the approval of the Authority under section 34 of the Insurance Act 1966 to acquire or hold a major stake in the company; or
 - (ii) the acquisition or holding of a major stake by the licensed insurer in the company has been excluded from the operation of section 34 of the Insurance Act 1966.

Division 2 — Computation of major stakes

Meaning of “affiliated company”

9.—(1) In this Part and Part 4, “affiliated company”, in relation to a DFHC, means —

- (a) any subsidiary of the DFHC;
- (b) any company in which the DFHC and its subsidiaries hold in the aggregate a beneficial interest in not less than 20% of the share capital, accumulated funds or contributed capital;
- (c) any company in which the DFHC and its subsidiaries control in the aggregate not less than 20% of the voting power;
- (d) any other company where the directors of the company are accustomed or under an obligation, whether formal or informal, to act in accordance with the DFHC’s directions, instructions or wishes, or where the DFHC is in a position to determine the policy of the company; or
- (e) any subsidiary of a company mentioned in sub-paragraph (b), (c) or (d).

(2) Despite paragraph (1)(a), (b), (c) or (e), any beneficial interest in the share capital, accumulated funds or contributed capital of, or control of voting power in, any company that is —

- (a) acquired by a DFHC or any company mentioned in paragraph (1) (called in this paragraph the relevant company) under an arrangement with a person who has a trading account with the relevant company, and transferred to the trading account of that person within 2 market days from the date of acquisition; or
- (b) acquired or held by the DFHC or the relevant company in the course of satisfaction of debts due to it and disposed of at the earliest suitable opportunity,

is excluded for the purpose of determining whether the company is an affiliated company of the DFHC.

(3) Despite paragraph (1)(c), any control of voting power in a company that is held by the DFHC or its subsidiary —

- (a) for the benefit of any person other than the DFHC or its subsidiary, or any other affiliated company of the DFHC (called in this paragraph the beneficiary) under an obligation imposed under any written law, rule of law, contract or order of court; and
- (b) used or exercised by the DFHC or its subsidiary primarily for the benefit of the beneficiary,

is excluded for the purpose of determining whether the company is an affiliated company of the DFHC, unless —

- (c) the control of voting power in the company is held by the DFHC's subsidiary that is a licensed insurer, through —
 - (i) any insurance fund established and maintained under the Insurance Act 1966 for its general business;
 - (ii) any insurance fund established and maintained under the Insurance Act 1966 for its non-participating policies;
 - (iii) any insurance fund established and maintained under the Insurance Act 1966 for its participating policies,

and that relates to assets held other than for the purpose of meeting the liabilities in respect of the policies of the insurance fund; or

(iv) any insurance fund established and maintained under the Insurance Act 1966 for its investment-linked policies, and that relates to assets held other than for the purpose of meeting those liabilities in respect of the policies of the insurance fund, the values of which are dependent on the value of the underlying assets; or

(d) the Authority is of the opinion (having regard to the specific circumstances of the case including whether the DFHC or its subsidiaries has investment and voting policies that comply with guidelines issued by the Authority) that the control of voting power in the company is in fact not being used or exercised primarily for the benefit of the beneficiary, and the Authority issues a declaration by written notice to the DFHC for this purpose.

(4) For the purposes of paragraph (3)(d), if the Authority issues a declaration by written notice to the DFHC, such control of voting power in the company mentioned in that paragraph must, with effect from the date of the declaration, be included for the purposes of determining whether that company is an affiliated company of the DFHC.

(5) Despite paragraph (1)(e), where a company mentioned in paragraph (1)(b) or (c) is not an affiliated company of the DFHC because of paragraph (2) or (3), its subsidiary is correspondingly not taken to be an affiliated company of the DFHC.

(6) In this regulation, “market day”, in relation to a share traded on a securities exchange, means any day on which the securities exchange is open for trading.

Holding by affiliated company treated as holding by DFHC

10.—(1) In determining whether a DFHC holds a major stake in a company within the meaning of section 31(10) of the Act —

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- (a) any beneficial interest in the share capital, accumulated funds or contributed capital of a company held by an affiliated company of the DFHC is treated as held by that DFHC;
- (b) any voting power in a company controlled by an affiliated company of the DFHC is treated as controlled by that DFHC; and
- (c) any interest in a company (where the management of the company is accustomed or under an obligation, whether formal or informal, to act in accordance with the DFHC's directions, instructions or wishes, or where the DFHC is in a position to determine the policy of the company) held by an affiliated company of the designated FHC is treated as held by that DFHC.
- (2) Paragraph (1) does not apply to —
- (a) any beneficial interest in the share capital, accumulated funds or contributed capital of a company; or
- (b) any voting power in a company,
- that is acquired or held or controlled, by an affiliated company and transferred or disposed of by the affiliated company in the manner mentioned in regulation 9(2)(a) or (b).
- (3) Subject to paragraph (4), paragraph (1)(b) or (c) does not apply to any voting power or interest in a company that is controlled or held by an affiliated company of a DFHC —
- (a) for the benefit of any person other than the affiliated company, the DFHC or any other affiliated company of the DFHC (called in this paragraph the beneficiary) under an obligation imposed under any written law, rule of law, contract or order of court; and
- (b) used or exercised by that affiliated company primarily for the benefit of the beneficiary.
- (4) Despite paragraph (3), paragraph (1)(b) or (c) applies to any voting power or interest in a company that is controlled or held by an affiliated entity of a DFHC if —

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- (a) the affiliated company is a licensed insurer, and the voting power or interest is controlled or held by it through any of the insurance funds specified in regulation 9(3)(c)(i) to (iv); or
 - (b) the Authority —
 - (i) is of the opinion (having regard to the specific circumstances of the case including whether the affiliated company has investment and voting policies that comply with guidelines issued by the Authority) that the voting power or interest in the company is in fact not being used or exercised primarily for the benefit of the beneficiary; and
 - (ii) issues a declaration under paragraph (5) to the DFHC for this purpose.

(5) For the purpose of paragraph (4)(b)(ii), the Authority may issue a declaration by written notice to the DFHC that, starting on the date specified in the declaration, paragraph (1)(b) or (c) applies to the voting power or interest in the entity controlled or held by that affiliated entity.

Affiliated company over which DFHC has no effective control

11.—(1) Where a company falls within the definition of “affiliated company” under regulation 9(1)(a), (b), (c) or (e), but not regulation 9(1)(d), and the Authority is satisfied that —

- (a) the affiliated company is not under the effective control of the DFHC; and
- (b) the DFHC is not exposed to any material risk because of —
 - (i) the affiliated company’s beneficial interest in the share capital, accumulated funds or contributed capital of any other company;
 - (ii) the affiliated company’s control of voting power in any other company; or

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- (iii) the affiliated company's interest in any other company,

the Authority may issue a declaration by written notice to the DFHC that regulation 10(1) does not apply to any beneficial interest in the share capital, accumulated funds or contributed capital of any company, any control of voting power in any company, or any interest in any company, held by that affiliated company.

(2) Where a declaration is made under paragraph (1), regulation 10(1) does not apply starting on the date specified in the declaration, until such time as the declaration is revoked.

(3) The Authority may, at any time on or after making a declaration under paragraph (1), impose any condition, and if any condition is not complied with at any time, the Authority may revoke the declaration by written notice to the DFHC.

(4) The Authority may add to, vary or revoke any condition imposed under paragraph (3).

(5) Without affecting paragraph (2), the Authority may, by written notice, to a DFHC, revoke a declaration made under paragraph (1) if the Authority is satisfied that —

- (a) the affiliated company has come under the effective control of the DFHC; or
- (b) the DFHC has become exposed to any material risk because of —
 - (i) the affiliated company's beneficial interest in the share capital, accumulated funds or contributed capital of any other company;
 - (ii) the affiliated company's control of voting power in any other company; or
 - (iii) the affiliated company's interest in any other company,

and in such event, regulation 10(1) applies to that affiliated company starting on the date specified in the notice of revocation.

(6) Without affecting paragraph (5), a declaration under paragraph (1) is automatically revoked if the affiliated company falls within the definition of “affiliated company” under regulation 9(1)(d), whether or not that affiliated company continues to fall within the definition of “affiliated company” under regulation 9(1)(a), (b), (c) or (e).

PART 4

LIMITATION OF MUTUAL SHAREHOLDINGS

Definitions of this Part

12. In this Part —

“affiliated company” has the meaning given by regulation 9;

“qualified major stake company”, in relation to a DFHC, means an affiliated company of the DFHC in which the DFHC holds a major stake;

“share” —

(a) in relation to a corporation (other than a co-operative society) — has the meaning given by section 4(1) of the Companies Act 1967; and

(b) in relation to a co-operative society — has the meaning given by section 2(1) of the Co-operative Societies Act 1979,

and includes an interest in a share.

Limitation of mutual shareholdings under section 59(2)(b) of Act

13.—(1) A qualified major stake company of a DFHC must not acquire or hold shares in the DFHC.

(2) A DFHC must not cause or knowingly permit any of its qualified major stake companies to acquire or hold shares in the DFHC in contravention of paragraph (1).

(3) In determining whether there is a contravention of paragraph (1) or (2), any control of voting power in a DFHC that is held by a qualified major stake company of that DFHC —

- (a) for the benefit of any person other than the qualified major stake company or any other qualified major stake company of that DFHC (called in this paragraph and paragraph (4) the beneficiary) under an obligation imposed under any written law, rule of law, contract or order of court; and
- (b) used or exercised by the qualified major stake company for the benefit of the beneficiary,

is disregarded.

(4) Paragraph (3) does not apply if —

- (a) the qualified major stake company is a licensed insurer, and the voting power is controlled by it through any of the insurance funds specified in regulation 9(3)(c)(i) to (iv); or
- (b) the Authority —
 - (i) is of the opinion (having regard to the specific circumstances of the case including whether the qualified major stake company has investment and voting policies that comply with guidelines issued by the Authority) that the control of voting power in the DFHC is in fact not being used or exercised primarily for the benefit of the beneficiary; and
 - (ii) issues a declaration under paragraph (5) by written notice to the qualified major stake company.

(5) For the purpose of paragraph (4)(b)(ii), the Authority may issue a declaration by written notice to the qualified major stake company that, starting on the date specified in the declaration, its control of voting power in the DFHC must be included in determining whether there is a contravention of paragraph (1) or (2).

Qualified major stake company over which DFHC has no effective control

14.—(1) Where a qualified major stake company falls within the definition of “affiliated company” of a DFHC under regulation 9(1)(a), (b), (c) or (e) but not regulation 9(1)(d), and the Authority is satisfied that —

- (a) the qualified major stake company is not under the effective control of the DFHC; and
- (b) the DFHC is not exposed to any material risk because of —
 - (i) the qualified major stake company’s beneficial interest in the share capital, accumulated funds or contributed capital of any other company;
 - (ii) the qualified major stake company’s control of voting power in any other company; or
 - (iii) the qualified major stake company’s interest in any other company,

the Authority may issue a declaration by written notice to the DFHC that, starting on the date specified in the declaration until such time as the declaration is revoked, any shares held by that qualified major stake company in the DFHC must be excluded for the purposes of determining whether there is a contravention of regulation 13(1) or (2).

(2) The Authority may, at any time on or after making the declaration under paragraph (1), impose any condition, and if any condition is not complied with at any time, the Authority may revoke the declaration by written notice to the DFHC.

(3) The Authority may add to, vary or revoke any condition imposed under paragraph (2).

(4) Without affecting paragraph (2), the Authority may, by written notice to a DFHC, revoke a declaration made under paragraph (1) if the Authority is satisfied that —

- (a) the qualified major stake company has come under the effective control of the DFHC; or

(b) the DFHC has become exposed to any material risk because of —

- (i) the qualified major stake company’s beneficial interest in the share capital, accumulated funds or contributed capital of any other company;
- (ii) the qualified major stake company’s control of voting power in any other company; or
- (iii) the qualified major stake company’s interest in any other company,

and in such event, any shares held by that qualified major stake company in the DFHC must, starting on the date specified in the notice of revocation, be included in determining whether there is a contravention of regulation 13(1) or (2).

(5) Without affecting paragraph (3), a declaration under paragraph (1) is automatically revoked if the qualified major stake company falls within the definition of “affiliated company” under regulation 9(1)(d), whether or not the qualified major stake company continues to fall within the definition of “affiliated company” under regulation 9(1)(a), (b), (c) or (e).

Offences, penalties and defences

15.—(1) A person who contravenes regulation 13(1) or (2) shall be guilty of an offence and shall be liable on conviction —

- (a) to a fine not exceeding \$25,000; and
- (b) in the case of a continuing offence, to a further fine of \$2,500 for every day or part of a day during which the offence continues after conviction.

(2) A qualified major stake company of a DFHC shall not be guilty of an offence in respect of a contravention of regulation 13(1) if the qualified major stake company proves that —

- (a) it became a qualified major stake company of the DFHC because of, or the contravention resulted from, circumstances beyond its control; or

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- (b) it had, at the time of its acquisition or holding of shares in the DFHC, reasonable grounds for believing that such acquisition or holding would not result in a contravention of regulation 13(1),

and it had, within 14 days of becoming aware of the contravention, notified the Authority in writing of the contravention and taken any action as directed by the Authority within the time determined by the Authority.

(3) A DFHC shall not be guilty of an offence in respect of a contravention of regulation 13(2) if the DFHC proves that —

- (a) the contravention resulted from circumstances beyond its control; or
- (b) it did not know and had no reason to suspect that there was an acquisition or holding of shares in itself by its qualified major stake company or companies that would result in it being in contravention of regulation 13(2),

and it had, within 14 days of becoming aware of the contravention, notified the Authority in writing of that contravention, and taken any action as directed by the Authority within the time determined by the Authority.

(4) Except as provided in paragraphs (2) and (3), it is not a defence for a person charged with an offence in respect of a contravention of regulation 13(1) or (2) to provide that the person did not intend to or did not knowingly contravene regulation 13(1) or (2), as the case may be.

Grace period for mutual shareholdings

16.—(1) Where a qualified major stake company of a DFHC would, but for this paragraph, be guilty of an offence under regulation 15(1) because of its shareholding in the DFHC immediately before the designation date of that DFHC, the qualified major stake company is not liable under that regulation within 2 years after that designation date only if it does not do any act that causes an increase in such shareholding.

(2) Where a DFHC would, but for this paragraph, be guilty of an offence under regulation 15(1) by virtue of its qualified major stake company's shareholding in itself before the designation date, the DFHC is not liable under that regulation within 2 years after that designation date only if it does not cause or permit its qualified major stake company to do any act that causes an increase in such shareholding.

Made on 28 June 2022.

RAVI MENON
Managing Director,
Monetary Authority of Singapore.

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