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SECURITIES AND FUTURES ACT
(CHAPTER 289)

SECURITIES AND FUTURES
(EXEMPTION FROM REQUIREMENT TO
HOLD CAPITAL MARKETS SERVICES LICENCE)
(AMENDMENT) REGULATIONS 2018

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 from Requirement to Hold Capital Markets Services Licence) (Amendment) Regulations 2018 and come into operation on 8 October 2018.

Amendment of regulation 1A

2. Regulation 1A of the Securities and Futures (Exemption from Requirement to Hold Capital Markets Services Licence) Regulations (Rg 11) is amended —

(a) by deleting the definitions of “customer” and “financial institution” and substituting the following definitions:

““customer”, in relation to a person, does not include —

- (a) the person, when carrying on business in dealing with capital markets products for the person’s own account; or
- (b) a related corporation of the person, for an account belonging to and

maintained wholly for the benefit of that related corporation;

“financial institution” means any institution licensed by, approved by, registered with or otherwise regulated by, the Authority under any written law;

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

- (b) by deleting the words “securities or trading in futures contracts in that jurisdiction;” in the definition of “relevant regulator” and substituting the words “capital markets products in that jurisdiction.”;
- (c) by deleting the definitions of “structured warrant” and “underlying financial instrument”; and
- (d) by renumbering the regulation as paragraph (1) of that regulation, and by inserting immediately thereafter the following paragraph:

“(2) For the purposes of these Regulations, a customer is resident in Singapore if —

- (a) where the customer is an individual, the individual is ordinarily resident in Singapore; or
- (b) where the customer is a body of persons, corporate or unincorporate, the body of persons has a place of business in Singapore, whether or not the body of persons is incorporated or formed in Singapore.”.

Deletion and substitution of regulation 2 and new regulations 3 and 4

3. Regulation 2 of the Securities and Futures (Exemption from Requirement to Hold Capital Markets Services Licence) Regulations is deleted and the following regulations substituted therefor:

“Exemption for Citibank Aktiengesellschaft

2. Subject to the conditions and restrictions specified in writing by the Authority, Citibank Aktiengesellschaft is exempt from the requirement to hold a capital markets services licence to carry on business in dealing in capital markets products when dealing in specified products on behalf of any financial institution.

Exemption for foreign companies trading under approved arrangements with related corporations

3.—(1) This regulation applies to a foreign company that, immediately before 27 February 2008, was carrying on a trade in futures contracts (not being commodity futures contracts) under an arrangement with its related corporation, being an arrangement that has been and continues to be approved by the Authority under paragraph 9 of the Third Schedule to the Act.

(2) A foreign company to which this regulation applies is exempt from the requirement under section 82(1) of the Act to hold a capital markets services licence to carry on business in dealing in capital markets products that are commodity futures contracts under the same terms of arrangement mentioned in paragraph (1).

(3) In this regulation, “commodity futures contracts” has the meaning given by section 2 of the Commodity Trading Act (Cap. 48A) as in force immediately before 27 February 2008.

General exemption

4.—(1) A person who meets the conditions specified in paragraph (3)(a) to (f) is exempt from the requirement under section 82(1) of the Act to hold a capital markets services licence to carry on business in dealing in capital markets products that are securities, units in a collective investment scheme or exchange-traded derivatives contracts that are listed or quoted on an approved exchange, or a recognised market operator that is incorporated in Singapore.

(2) A person who meets the conditions specified in paragraph (3)(a) to (g) is exempt from the requirement under section 82(1) of the Act to hold a capital markets services licence to carry on business in dealing in capital markets products that are futures contracts or over-the-counter derivatives contracts that are cleared or settled by an approved clearing house, or a recognised clearing house that is incorporated in Singapore.

(3) The conditions mentioned in paragraphs (1) and (2) are that the person —

- (a) is incorporated outside Singapore;
- (b) is —
 - (i) for a person mentioned in paragraph (1), a member of the approved exchange or recognised market operator on which the securities, units in a collective investment scheme or exchange-traded derivatives contracts (as the case may be) are listed or quoted on; or
 - (ii) for a person mentioned in paragraph (2), a member of the approved clearing house or recognised clearing house that clears or settles the futures contracts or the over-the-counter derivatives contracts, as the case may be;
- (c) does not serve any customer resident in Singapore;
- (d) is not a financial institution;
- (e) carries on business in any jurisdiction the relevant regulator of which has an arrangement with the Authority for information exchange and cooperation in respect of securities, units in a collective investment scheme, exchange-traded derivatives contracts, futures contracts or over-the-counter derivatives contracts, as the case may be;

(f) is —

(i) for a person mentioned in paragraph (1), registered, licensed, approved or otherwise regulated in respect of dealing in capital markets products that are securities, units in a collective investment scheme or exchange-traded derivatives contracts, as the case may be; or

(ii) for a person mentioned in paragraph (2), registered, licensed, approved or otherwise regulated in respect of clearing of futures contracts or over-the-counter derivatives contracts, as the case may be,

by the relevant regulator mentioned in sub-paragraph (e); and

(g) does not have any affiliate that is a financial institution.

(4) A person (*A*) who would otherwise be, or who is, exempt under paragraph (1) or (2) is not, or ceases to be, so exempt if —

(a) *A*, being a person mentioned in paragraph (1), ceases to satisfy any condition in paragraph (3)(a) to (f);

(b) *A*, being a person mentioned in paragraph (2), ceases to satisfy any condition in paragraph (3)(a) to (g);

(c) *A* is in the course of being wound up or otherwise dissolved, whether in Singapore or elsewhere;

(d) execution against *A* in respect of a judgment debt has been returned unsatisfied in whole or in part;

(e) a receiver, a receiver and manager, a judicial manager, or any other person having the powers and duties of a receiver, receiver and manager or judicial manager, has been appointed, whether in Singapore or elsewhere, in relation to or in respect of any property of *A*;

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- (f) *A* has, whether in Singapore or elsewhere, entered into a compromise or scheme of arrangement with its creditors, being a compromise or scheme of arrangement that is still in operation;
 - (g) *A* has been convicted of a relevant offence;
 - (h) *A* is not a fit and proper person in relation to the conduct of the regulated activity for which it is exempt, or any substantial shareholder or equivalent person of *A* is not a fit and proper person to be in such capacity; or
 - (i) any person who, acting alone or together with any other person —
 - (i) controls, directly or indirectly, not less than 20% of the voting power or equivalent decision-making power in *A*; or
 - (ii) acquires or holds, directly or indirectly, not less than 20% of the issued shares or equivalent share of ownership of *A*,is not a fit and proper person to control such percentage of power or hold such percentage of shares or share of ownership.

(5) Where the person mentioned in paragraph (1) or (2) is a branch of an entity, and the head office of the entity and the branch carry on business in different jurisdictions, the relevant regulator mentioned in paragraph (3)(e) and (f) is the relevant regulator of the jurisdiction in which the branch carries on business.

(6) In paragraph (3)(g), a person (*B*) is an affiliate of another person (*C*) where —

- (a) one or more persons acquire or hold shares or share of ownership in both *B* and *C* and the person or those persons, as the case may be —

- (i) have acquired, or hold, not less than 20% in the aggregate of the issued shares or equivalent share of ownership in *B* and *C*, respectively; or
 - (ii) control not less than 20% in the aggregate of the voting power or equivalent decision-making power in *B* and *C*, respectively; or
- (b) *B* —
- (i) acquires or holds, directly or indirectly, not less than 20% of the issued shares or equivalent share of ownership in *C*; or
 - (ii) controls, directly or indirectly, not less than 20% of the voting power or equivalent decision-making power in *C*.”.

[G.N. Nos. S 147/2008; S 501/2010]

Made on 26 September 2018.

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