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SECURITIES AND FUTURES ACT
(CHAPTER 289)

SECURITIES AND FUTURES
(REPORTING OF DERIVATIVES CONTRACTS)
(AMENDMENT NO. 2) REGULATIONS 2018

In exercise of the powers conferred by sections 129, 129A, 337(1) 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 (Reporting of Derivatives Contracts) (Amendment No. 2) Regulations 2018 and come into operation on 1 January 2019.

Amendment of regulation 9

2. Regulation 9 of the Securities and Futures (Reporting of Derivatives Contracts) Regulations 2013 (G.N. No. S 668/2013) (called in these Regulations the principal Regulations) is amended by deleting the words “regulation 11” in paragraphs (1), (2), (3) and (4) and substituting in each case the words “regulation 11, 11A, 11B or 11C”.

Deletion of regulation 11 and new Part IIA

3. Regulation 11 of the principal Regulations is deleted and the following Part substituted therefor:

“PART IIA
DEFERRED REPORTING OF
COUNTERPARTY INFORMATION

Cases where specified person is prohibited unless certain consent is obtained, from reporting counterparty information on specified derivatives contract entered into before 1 January 2019, under laws or requirements of any jurisdiction

- 11.—(1) A specified person who —
- (a) is a party to a specified derivatives contract that is entered into before 1 January 2019;
 - (b) is bound by a requirement of the law of any jurisdiction, or a requirement of any authority of any jurisdiction, to report the counterparty information set out in the First Schedule in respect of the specified derivatives contract only with the consent of the counterparty to the specified derivatives contract; and
 - (c) has made reasonable efforts but is unable to obtain such consent,

need not report the counterparty information at such time or times and in such form and manner specified in regulation 9, but must report the counterparty information in accordance with paragraph (2).

(2) Subject to paragraph (3), a specified person to whom paragraph (1) applies must report the counterparty information set out in the First Schedule in respect of the specified derivatives contract not later than —

- (a) 1 July 2019; or
- (b) if the specified person has been making reasonable efforts to obtain the requisite consent of the counterparty, the later of the following dates:
 - (i) 1 July 2019;

(ii) the last day of the one-month period after the occurrence of either of the following events, whichever occurs first:

(A) the requisite consent is obtained;

(B) the requirement of the law or of the authority for consent is revoked.

(3) A specified person need not comply with paragraph (2) if the specified derivatives contract ceases to be in force before the date mentioned in paragraph (2)(a) or (b)(i) or (ii), as the case may be.

(4) A specified person who —

(a) enters into a specified derivatives contract as an agent of a party to the specified derivatives contract before 1 January 2019;

(b) is bound by a requirement of the law of any jurisdiction, or a requirement of any authority of any jurisdiction, to report the counterparty information set out in the First Schedule in respect of the specified derivatives contract only with the consent of —

(i) the counterparty to the specified derivatives contract;

(ii) the party for whom the specified person has entered into the specified derivatives contract;
or

(iii) both the persons mentioned in sub-paragraphs (i) and (ii); and

(c) has made reasonable efforts but is unable to obtain such consent,

need not report the counterparty information at such time or times and in such form and manner specified in regulation 9, but must report the counterparty information in accordance with paragraph (5).

(5) Subject to paragraph (6), a specified person to whom paragraph (4) applies must report the counterparty information set out in the First Schedule in respect of the specified derivatives contract not later than —

- (a) 1 July 2019; or
- (b) if the specified person has been making reasonable efforts to obtain the requisite consent of the person or persons mentioned in paragraph (4)(b)(i), (ii) or (iii), as the case may be, the later of the following dates:
 - (i) 1 July 2019;
 - (ii) the last day of the one-month period after the occurrence of either of the following events, whichever occurs first:
 - (A) the requisite consent is obtained;
 - (B) the requirement of the law or of the authority for consent is revoked.

(6) A specified person need not comply with paragraph (5) if the specified derivatives contract ceases to be in force before the date mentioned in paragraph (5)(a) or (b)(i) or (ii), as the case may be.

Cases where specified person is prohibited under laws or requirements of jurisdiction specified in Fifth Schedule from reporting counterparty information on specified derivatives contract

11A.—(1) A specified person who —

- (a) is a party to a specified derivatives contract, or enters into a specified derivatives contract as an agent of a party to the specified derivatives contract; and
- (b) is completely prohibited by a requirement of the law of any jurisdiction specified in the Fifth Schedule or a requirement of any authority of any jurisdiction specified in the Fifth Schedule, from reporting any

counterparty information set out in the First Schedule in respect of the specified derivatives contract,

need not report the counterparty information at such time or times and in such form and manner specified in regulation 9, but must report the counterparty information in accordance with paragraph (2).

(2) Subject to paragraph (3), the specified person to whom paragraph (1) applies must report the counterparty information set out in the First Schedule in respect of the specified derivatives contract not later than 1 July of the year immediately following the date on which the requirement of the law or of the authority mentioned in paragraph (1)(b) is revoked (called in this regulation the specified date).

(3) A specified person need not comply with paragraph (2) if the specified derivatives contract ceases to be in force before the specified date.

Cases where specified person was previously prohibited under laws or requirements of jurisdiction specified in Fifth Schedule from reporting counterparty information on specified derivatives contract

11B.—(1) A specified person who is a party to a specified derivatives contract that is entered into, or enters into a specified derivatives contract as an agent of a party to the specified derivatives contract, before the specified date need not report any counterparty information on the specified derivatives contract at such time or times and in such form and manner specified in regulation 9, but must report the counterparty information in accordance with paragraph (2).

(2) Subject to paragraph (3), the specified person to whom paragraph (1) applies must report the counterparty information set out in the First Schedule in respect of the specified derivatives contract not later than the specified date.

(3) A specified person need not comply with paragraph (2) if the specified derivatives contract ceases to be in force before the specified date.

(4) In this regulation —

“date of change” means the date on which there is a change in a requirement of the law of any jurisdiction specified in the Fifth Schedule or a requirement of any authority of any jurisdiction specified in the Fifth Schedule, whether such change occurred before, on or after 1 January 2019, where had the change not come into force, the specified person mentioned in paragraph (1) would have been completely prohibited from reporting any counterparty information set out in the First Schedule in respect of the specified derivatives contract mentioned in that paragraph;

“specified date” is 1 July of the year immediately following the date of change.

Cases where specified person is prohibited unless certain consent is obtained, from reporting counterparty information on specified derivatives contract under laws or requirements of jurisdiction specified in Fifth Schedule

11C.—(1) A specified person who —

- (a) is a party to a specified derivatives contract that is entered into before the specified date *A*;
- (b) is bound by a requirement of the law of any jurisdiction specified in the Fifth Schedule, or a requirement of any authority of any jurisdiction specified in the Fifth Schedule, to report any counterparty information set out in the First Schedule in respect of the specified derivatives contract only with the consent of the counterparty to the specified derivatives contract; and

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- (c) had the requirement of the law or of the authority mentioned in sub-paragraph (b) not come into force, would have been completely prohibited under a requirement of a law or of an authority of the jurisdiction mentioned in sub-paragraph (b) from reporting the counterparty information,

need not report the counterparty information at such time or times and in such form and manner specified in regulation 9, but must report the counterparty information in accordance with paragraph (2).

(2) Subject to paragraph (3), a specified person to whom paragraph (1) applies must report the counterparty information set out in the First Schedule in respect of the specified derivatives contract not later than —

- (a) the specified date *A*; or
- (b) if the specified person has been making reasonable efforts to obtain the requisite consent of the counterparty, the later of the following dates:
- (i) the specified date *A*;
- (ii) the last day of the one-month period after the occurrence of either of the following events, whichever occurs first:
- (A) the requisite consent is obtained;
- (B) the requirement of the law or of the authority for consent is revoked.

(3) A specified person need not comply with paragraph (2) if the specified derivatives contract ceases to be in force before the date mentioned in paragraph (2)(a) or (b)(i) or (ii), as the case may be.

- (4) A specified person who —
- (a) enters into a specified derivatives contract as an agent of a party to the specified derivatives contract before the specified date *B*;

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- (b) is bound by a requirement of the law of any jurisdiction specified in the Fifth Schedule, or a requirement of any authority of any jurisdiction specified in the Fifth Schedule, to report any counterparty information set out in the First Schedule in respect of the specified derivatives contract only with the consent of —
- (i) the counterparty to the specified derivatives contract;
 - (ii) the party for whom the specified person has entered into the specified derivatives contract; or
 - (iii) both the persons mentioned in sub-paragraphs (i) and (ii); and
- (c) had the requirement of the law or of the authority mentioned in sub-paragraph (b) not come into force, would have been completely prohibited under a requirement of a law or of an authority of the jurisdiction mentioned in sub-paragraph (b) from reporting the counterparty information,

need not report the counterparty information at such time or times and in such form and manner specified in regulation 9, but must report the counterparty information in accordance with paragraph (5).

(5) Subject to paragraph (6), a specified person to whom paragraph (4) applies must report the counterparty information set out in the First Schedule in respect of the specified derivatives contract not later than —

- (a) the specified date *B*; or
- (b) if the specified person has been making reasonable efforts to obtain the requisite consent of the person or persons mentioned in paragraph (4)(b)(i), (ii) or (iii), as the case may be, the later of the following dates:
 - (i) the specified date *B*;

(ii) the last day of the one-month period after the occurrence of either of the following events, whichever occurs first:

(A) the requisite consent is obtained;

(B) the requirement of the law or of the authority for consent is revoked.

(6) A specified person need not comply with paragraph (5) if the specified derivatives contract ceases to be in force before the date mentioned in paragraph (5)(a) or (b)(i) or (ii), as the case may be.

(7) In this regulation —

“specified date *A*” means 1 July of the year immediately following the date on which the requirement of the law or of the authority mentioned in paragraph (1)(b) came into force;

“specified date *B*” means 1 July of the year immediately following the date on which the requirement of the law or of the authority mentioned in paragraph (4)(b) came into force.”.

Amendment of First Schedule

4. The First Schedule to the principal Regulations is amended by deleting the words “Regulation 11(1), (2) and (4)” in the Schedule reference and substituting the words “Regulations 11(1)(b), (2), (4)(b) and (5), 11A(1)(b) and (2), 11B(2) and (4) and 11C(1)(b), (2), (4)(b) and (5)”.

Amendment of Fifth Schedule

5. The Fifth Schedule to the principal Regulations is amended by deleting the Schedule reference and substituting the following Schedule reference:

“Regulations 11A(1)(b), 11B(4) and 11C(1)(b) and (4)(b)”.

*[G.N. Nos. S 224/2014; S 727/2014; S 617/2015;
S 41/2016; S 30/2017; S 331/2017; S 529/2017;
S 153/2018]*

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ONG CHONG TEE
Managing Director,
Monetary Authority of Singapore.

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