
First published in the *Government Gazette*, Electronic Edition, on 30 November 2021 at 5 pm.

No. S 913

SECURITIES AND FUTURES ACT (CHAPTER 289)

SECURITIES AND FUTURES (CLASSES OF INVESTORS) (AMENDMENT) REGULATIONS 2021

In exercise of the powers conferred by section 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 (Classes of Investors) (Amendment) Regulations 2021 and come into operation on 3 January 2022.

Amendment of regulation 3

2. Regulation 3(9) of the Securities and Futures (Classes of Investors) Regulations 2018 (G.N. No. S 665/2018) is amended by inserting, immediately after paragraph (h) of the definition of “consent provision”, the following paragraph:

“(i) as applicable, regulation 3(2)(a)(ii) of the Financial Advisers (Complaints Handling and Resolution) Regulations 2021 (G.N. No. S 912/2021);”.

Saving and transitional provisions

3.—(1) Despite these Regulations but subject to paragraphs (2), (3) and (4), an individual (called in this regulation *A*) to whom a financial adviser had provided any financial advisory service before 3 January 2022 who —

(a) before that date, had opted to be treated by the financial adviser as an accredited investor under regulation 3(3) of

the old Regulations, or (being a trustee) was treated as having opted to be so treated under regulation 3(4) of the old Regulations, for all the consent provisions as defined in regulation 3(9) of the old Regulations; and

- (b) immediately before that date, had not notified the financial adviser that *A* does not consent to being treated by the financial adviser as an accredited investor for the purposes of all the consent provisions as defined in regulation 3(9) of the old Regulations,

is treated on or after that date as having opted to be treated by the financial adviser as an accredited investor for all the consent provisions, including regulation 3(2)(a)(ii) of the Financial Advisers (Complaints Handling and Resolution) Regulations 2021.

(2) If the financial adviser does not give *A* all the statements mentioned in paragraph (5) before 3 April 2022, then paragraph (1) only applies until that date.

(3) If, before *A* gives any notification mentioned in paragraph (4) to the financial adviser, the financial adviser gives *A* all the statements mentioned in paragraph (5), then paragraph (1) only applies —

- (a) so long as *A* has not notified the financial adviser that *A* does not consent to being treated as an accredited investor for the purposes of all of the consent provisions, including regulation 3(2)(a)(ii) of the Financial Advisers (Complaints Handling and Resolution) Regulations 2021; or
- (b) where *A* has notified the financial adviser that *A* does not consent to being treated as an accredited investor for the purposes of all of the consent provisions, including regulation 3(2)(a)(ii) of the Financial Advisers (Complaints Handling and Resolution) Regulations 2021 — until the expiry of the processing period,

and if the financial adviser has recorded in writing the fact mentioned in sub-paragraph (a) or (b), as the case may be.

(4) If, before the financial adviser gives *A* all the statements mentioned in paragraph (5), *A* notifies the financial adviser pursuant to the statement mentioned in regulation 3(3)(b)(iii) or (4)(c)(iii) (as the case may be) of the old Regulations that was provided by the financial adviser to *A* before 3 January 2022, that *A* does not consent to being treated by the financial adviser as an accredited investor for the purposes of all the consent provisions as defined in regulation 3(9) of the old Regulations, then paragraph (1) only applies until the earlier of the following dates:

- (a) 3 April 2022;
- (b) the last day of the period of time specified in the statement after which the financial adviser is not to treat *A* as an accredited investor for the purposes of all of those consent provisions.

(5) For the purposes of paragraphs (2), (3) and (4), the statements are as follows:

- (a) a statement that the financial adviser intends to continue to treat *A* as an accredited investor for the purposes of all the consent provisions (including regulation 3(2)(a)(ii) of the Financial Advisers (Complaints Handling and Resolution) Regulations 2021) starting on 3 April 2022;
- (b) a statement that *A* may at any time notify the financial adviser that *A* does not consent to being so treated by the financial adviser, upon which the financial adviser will not (after the processing period specified in the statement) treat *A* as an accredited investor for the purposes of all the consent provisions, including regulation 3(2)(a)(ii) of the Financial Advisers (Complaints Handling and Resolution) Regulations 2021;
- (c) a statement setting out a clear explanation in plain language of the effect of *A* being treated by the financial adviser as an accredited investor for the purposes of regulation 3(2)(a)(ii) of the Financial Advisers (Complaints Handling and Resolution) Regulations 2021, in sufficient detail as to enable *A* to make an informed

decision whether to give the notification of no consent mentioned in sub-paragraph (b).

(6) To avoid doubt, any notification of no consent mentioned in paragraph (3)(b) does not affect any transaction entered into before the processing period has passed.

(7) To avoid doubt, the cessation of the application of paragraph (1) by reason of paragraph (4) does not affect any transaction entered into before the date of such cessation.

(8) To avoid doubt, paragraph (1) does not prevent *A* from being treated by the financial adviser as an accredited investor for all the consent provisions (including regulation 3(2)(a)(ii) of the Financial Advisers (Complaints Handling and Resolution) Regulations 2021) by the operation of regulation 3(3) or (4) of the Securities and Futures (Classes of Investors) Regulations 2018 as in force on or after 3 January 2022.

(9) For the purposes of paragraph (5)(c), a mere reproduction, restatement, paraphrase or translation of regulation 3(2)(a)(ii) of the Financial Advisers (Complaints Handling and Resolution) Regulations 2021 is not a clear explanation in plain language of the effect under that provision of a person being treated by the financial adviser as an accredited investor.

(10) In this regulation —

“financial adviser” has the meaning given by section 2(1) of the Financial Advisers Act;

“old Regulations” means the Securities and Futures (Classes of Investors) Regulations 2018 as in force immediately before 3 January 2022;

“processing period” means —

(a) where before 3 January 2022, *A* had opted to be treated by a financial adviser as an accredited investor under regulation 3(3) of the old Regulations — a period equal to the period specified in the statement mentioned in

regulation 3(3)(b)(iii) of the old Regulations that was provided to *A*; or

- (b) where before 3 January 2022, *A* was treated as having opted to be treated by a financial adviser as an accredited investor under regulation 3(4) of the old Regulations — a period equal to the period specified in the statement mentioned in regulation 3(4)(c)(iii) of the old Regulations that was provided to *A*.

[G.N. Nos. S 30/2019; S 31/2019]

Made on 26 November 2021.

RAVI MENON
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[MPI MCP 02/2021; AG/LEGIS/SL/289/2020/4 Vol. 1]