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SECURITIES AND FUTURES ACT
(CHAPTER 289)

SECURITIES AND FUTURES (CLEARING OF DERIVATIVES CONTRACTS) REGULATIONS 2018

ARRANGEMENT OF REGULATIONS

Regulation

In exercise of the powers conferred by sections 129G 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 (Clearing of Derivatives Contracts) Regulations 2018 and come into operation on 1 October 2018.

Definitions

2. In these Regulations —

“aggregate outstanding notional amount”, in relation to a bank that is licensed under the Banking Act (Cap. 19), means the aggregate of the notional amounts of every derivatives contract —

(*a*) which is not an exchange-traded derivatives contract;

(*b*) to which the bank is a party;

(*c*) which is booked in Singapore; and

(*d*) which is outstanding;

"booked in Singapore", in relation to a derivatives contract, means the entry of the derivatives contract on the balance-sheet or the profit and loss accounts of a person where —

(*a*) the person is a party to the derivatives contract;

(*b*) the person's place of business is in Singapore; and

(*c*) the balance-sheet or the profit and loss accounts relate to the person's business in Singapore;

"business day" means any day other than a Saturday, Sunday or public holiday;

"outstanding", in relation to a derivatives contract, refers to a derivatives contract that —

(*a*) has not expired; and

(*b*) has not been terminated in accordance with the terms and conditions of the derivatives contract or by agreement between the parties to the derivatives contract;

"place of business", in relation to a party to a derivatives contract, means a head or main office, a branch, a representative office or any other office of the party.

Specified derivatives contracts

3. The derivatives contracts set out in the Schedule are prescribed for the purposes of the definition of "specified derivatives contract" in section 129B of the Act.

Prescribed time

4. For the purposes of section 129C(1) of the Act, the prescribed time is one business day after the day on which the specified derivatives contract is entered into.

Exemption from section 129C of Act

5. The following specified persons are exempt from section 129C of the Act:

(*a*) any bank that is licensed under the Banking Act (Cap. 19) whose aggregate outstanding notional amount does not exceed $20,000,000,000 —

(i) for the last day of the most recently completed quarter; and

(ii) for last day of each of the 3 consecutive quarters immediately preceding that quarter;

(*b*) any bank that is licensed under the Banking Act that has been carrying on business for less than one year;

(*c*) any merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186);

(*d*) any finance company licensed under the Finance Companies Act (Cap. 108);

(*e*) any insurer licensed under the Insurance Act (Cap. 142);

(*f*) any holder of a capital markets services licence.

Keeping of books and other information

6.—(1) Every specified person who is not exempt under regulation 5 must ensure that all relevant books, and all transaction information and other information as may be required by the Authority for the purposes of the Act, are kept —

(*a*) in the case of any relevant book, until at least 5 years after the last date of the expiry or termination of a contract, an agreement or a transaction to which the book relates; or

(*b*) in the case of any transaction information or other information, until at least 5 years after the date of the expiry or termination of the contract, agreement or transaction to which the information relates.

(2) Any specified person who contravenes paragraph (1) 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 of a day during which the offence continues after conviction.

(3) Section 333(1) of the Act does not apply to any offence mentioned in paragraph (2).

THE SCHEDULE

Regulation 3

SPECIFIED DERIVATIVES CONTRACTS

1. Subject to paragraph 2, any derivatives contract that meets all of the following criteria is a specified derivatives contract:

(*a*) the derivatives contract is not an exchange-traded derivatives contract;

(*b*) the parties to the derivatives contract are not related corporations;

(*c*) the derivatives contract is booked in Singapore by both parties to the derivatives contract;

(*d*) the parties to the derivatives contract are specified persons who are not, under regulation 5, exempt from section 129C of the Act;

(*e*) the derivatives contract is a fixed-to-floating interest rate swap contract that has all of the features specified for an item in a row of Table 1 of this Schedule.

2. Despite paragraph 1, a derivatives contract is not a specified derivatives contract if —

(*a*) the derivatives contract is entered into or amended —

(i) as a result of a multilateral portfolio compression cycle; and

(ii) with a participant in the multilateral portfolio compression cycle that was a party to one or more of the compressed derivatives contracts under the cycle; and

(*b*) none of the compressed derivatives contracts under the multilateral portfolio compression cycle met all of the criteria under paragraph 1.

3. In this Schedule —

"compressed derivatives contract", in relation to a multilateral portfolio compression cycle, means a derivatives contract that was modified, or terminated and replaced, under the cycle;

THE SCHEDULE — *continued*

"constant notional amount", as a specified feature of a derivatives contract, refers to whether or not the notional amount of the derivatives contract is constant throughout the tenor of the derivatives contract;

"features", in relation to a fixed-to-floating interest rate swap contract, means the following:

(*a*) the settlement currency of the fixed-to-floating interest rate swap contract is the currency as specified in the second column of Table 1;

(*b*) the underlying thing of the fixed-to-floating interest rate swap contract is the floating interest rate index as specified in the third column of Table 1;

(*c*) the tenor of the fixed-to-floating interest rate swap contract is within the range as specified in the fourth column of Table 1;

(*d*) whether or not the fixed-to-floating interest rate swap contract has optionality is as specified in the fifth column of Table 1;

(*e*) whether or not the fixed-to-floating interest rate swap contract has a constant notional amount is as specified in the sixth column of Table 1;

(*f*) the date on which the fixed-to-floating interest rate swap contract is entered into is within the range as specified in the seventh column of Table 1;

"fixed-to-floating interest rate swap contract" means an interest rate swap under which —

(*a*) the payments to be made by one of the 2 parties are to be calculated by reference to a fixed interest rate applied to a notional amount; and

(*b*) the payments to be made by the other party are to be calculated by reference to a floating interest rate applied to the same notional amount;

"interest rate swap" means a derivatives contract under which —

(*a*) the 2 parties to the derivatives contract agree to exchange interest rate cash flows at specified intervals while the derivatives contract is outstanding; and

(*b*) the payments are to be calculated by reference to —

(i) a notional amount that is denominated in a single currency; and

THE SCHEDULE — *continued*

(ii) agreed fixed interest rates or agreed floating interest rates;

"LIBOR" means the interest rate index which is the London Interbank Offered Rate;

"multilateral portfolio compression cycle" means a process —

(*a*) that is applied to a portfolio of derivatives contracts;

(*b*) under which some or all of the derivatives contracts in the portfolio are —

(i) modified to reduce their notional amount; or

(ii) terminated and replaced with one or more new derivatives contracts which have the effect of reducing notional exposures between the participants;

(*c*) that is conducted for the purposes of reducing counterparty risk or operational risk for the participants;

(*d*) that is conducted by an operator engaged by parties to derivatives contracts contained in the portfolio;

(*e*) in which there are at least 3 participants; and

(*f*) that is conducted —

(i) in accordance with rules set by the operator; and

(ii) in compliance with a counterparty credit risk tolerance level set by all the participants;

"optionality", as a specified feature of a derivatives contract, refers to whether or not the derivatives contract has an option granted to a party to the derivatives contract which, if exercised, would or could affect the amount, timing or form of the payments to be made under the derivatives contract;

"participant" means a person who —

(*a*) is a party to one or more derivatives contracts contained in a portfolio of derivatives contracts;

(*b*) has, together with 2 or more other persons (each of whom is a party to one or more derivatives contracts contained in the portfolio), engaged an operator to conduct a multilateral portfolio compression cycle on the portfolio; and

(*c*) is not the operator;

THE SCHEDULE — *continued*

"settlement currency", as a specified feature of a derivatives contract, refers to the currency in which payments under the derivatives contract are denominated;

"SOR" means the interest rate index which is the Singapore Dollar Swap Offer Rate;

"tenor", as a specified feature of a derivatives contract, refers to the period starting on the date on which the derivatives contract is entered into and ending on the date on which the derivatives contract expires;

"underlying thing", as a specified feature of a derivatives contract that is a fixed-to-floating interest rate swap contract, means the floating interest rate index by reference to which payments to be made by any one counterparty to the other counterparty under the fixed-to-floating interest rate swap contract are calculated.

TABLE 1

Fixed-to-floating interest rate swap contracts

First column	*Second column*	*Third column*	*Fourth column*	*Fifth column*	*Sixth column*	*Seventh column*
Item	Settlement currency	Underlying thing	Tenor	Optionality	Constant notional amount	Date on which derivatives contract is entered into
1.	Singapore dollar	SOR	28 days to 10 years	No	Yes	On or after 1 October 2018
2.	United States dollar	LIBOR	28 days to 10 years	No	Yes	On or after 1 October 2018

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