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SECURITIES AND FUTURES ACT
(CHAPTER 289)

SECURITIES AND FUTURES
(CAPITAL MARKETS PRODUCTS)
REGULATIONS 2018

ARRANGEMENT OF REGULATIONS

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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 (Capital Markets Products) Regulations 2018 and come into operation on 9 July 2018.

Exemption from section 309B(1) of Act

2. An issuer is exempt from complying with section 309B(1) of the Act in relation to an offer of any capital markets products, if the offer is made to —

- (a) an accredited investor;
- (b) an expert investor;
- (c) an institutional investor; or

(d) any other person that is not an individual.

Exemption from section 309B(2) of Act

3.—(1) A relevant person is exempt from complying with section 309B(2) of the Act in relation to an offer of any capital markets products, if —

(a) the offer is made to —

- (i) an accredited investor;
- (ii) an expert investor;
- (iii) an institutional investor; or
- (iv) any other person that is not an individual; or

(b) both of the following conditions are satisfied:

(i) the relevant person is —

- (A) a person licensed under the Financial Advisers Act (Cap. 110) to advise on any investment product;
- (B) a person who is exempt under section 23(1)(a), (b), (c), (d) or (e) of the Financial Advisers Act from holding a financial adviser's licence; or
- (C) a person who is both a representative as defined in section 2(1) of the Act, and a representative as defined in section 2(1) of the Financial Advisers Act, of a person mentioned in sub-paragraph (A) or (B);

(ii) the offer is made by the relevant person in connection with the provision of a financial advisory service in respect of which —

- (A) in the case of a relevant person mentioned in sub-paragraph (i)(A), the relevant person is exempt from complying with section 27 of the Financial Advisers Act under regulation 18A, 28(2), 31(4), 32B(1) or 34 of the Financial Advisers Regulations (Cap. 110, Rg 2);

(B) in the case of a relevant person mentioned in sub-paragraph (i)(B), the relevant person —

(BA) is exempt from complying with section 23(4) of the Financial Advisers Act under regulation 27A(1) of the Financial Advisers Regulations; or

(BB) is exempt from complying with section 27 of the Financial Advisers Act (as it applies to the relevant person by reason of section 23(4) of that Act) under regulation 18A, 28(3), 31(7), 32B(1) or 34 of the Financial Advisers Regulations; or

(C) in the case of a relevant person mentioned in sub-paragraph (i)(C), the relevant person —

(CA) is exempt from complying with section 23B(1) of the Financial Advisers Act under regulation 27A(2) of the Financial Advisers Regulations; or

(CB) is exempt from complying with section 27 of the Financial Advisers Act (as it applies to the relevant person by reason of section 37 of that Act) under regulation 18A, 28(4), 31(5) or (8), 32B(3) or 34 of the Financial Advisers Regulations.

(2) In paragraph (1), “financial advisory service” has the same meaning as in section 2(1) of the Financial Advisers Act.

Prescribed time in section 309B(3) of Act

4. For the purposes of section 309B(3) of the Act, the prescribed time is 21 days commencing on the date on which the change in the classification of capital markets products concerned occurred.

Prescribed capital markets products

5. For the purposes of the definition of “prescribed capital markets products” in section 309B(10) of the Act, the Authority prescribes the classes of capital markets products specified in paragraph 1 of the Schedule.

THE SCHEDULE

Regulation 5

PRESCRIBED CAPITAL MARKETS PRODUCTS

1. For the purpose of regulation 5, the classes of capital markets products are as follows:

- (a) stocks or shares issued or proposed to be issued by a corporation or body unincorporate (other than a corporation or body unincorporate that is a collective investment scheme);
- (b) units of shares that represent a unitholder’s ownership in underlying shares, where —
 - (i) each underlying share is held on trust for the unitholder by a custodian; and
 - (ii) the unitholder is not obliged to pay any consideration for the purpose of converting any such unit into the underlying share, other than administrative fees for the conversion;
- (c) rights, options or derivatives issued or proposed to be issued by a corporation or body unincorporate in respect of its own stocks or shares;
- (d) units in a business trust;
- (e) derivatives of units in a business trust;
- (f) units in a collective investment scheme that satisfies all of the following conditions:
 - (i) the collective investment scheme is constituted as a trust;
 - (ii) the collective investment scheme invests primarily in real estate and real estate-related assets specified by the Authority in the Code on Collective Investment Schemes;
 - (iii) all or any of the units in the collective investment scheme are listed for quotation on a securities exchange;

THE SCHEDULE — *continued*

- (g) units in a collective investment scheme to which all of the matters mentioned in paragraph 2 apply;
 - (h) debentures other than —
 - (i) asset-backed securities; or
 - (ii) structured notes;
 - (i) contracts or arrangements under which one party agrees to exchange currency at an agreed rate of exchange with another party, and such currency exchange is effected immediately after any such contract or arrangement (as the case may be) is entered into;
 - (j) capital markets products consisting of 2 or more capital markets products (each belonging to a class of capital markets products mentioned in sub-paragraphs (a) to (i)) that are linked together in a stapled manner such that any one of the linked capital markets products is not transferable and cannot be otherwise dealt with independent of the remaining linked capital markets products.
2. For the purpose of paragraph 1(g), the matters are as follows:
- (a) the CIS documents of the collective investment scheme require that the manager of the scheme must not engage in any securities lending transaction or securities repurchase transaction in relation to the scheme, except where —
 - (i) the securities lending transaction or securities repurchase transaction (as the case may be) is carried out for the sole purpose of efficient portfolio management; and
 - (ii) the total value of securities subject to all the securities lending transactions and securities repurchase transactions entered into by the manager does not exceed 50% of the net asset value of the scheme at any time,and the manager complies with the requirement;
 - (b) the CIS documents of the collective investment scheme require the manager of the scheme —
 - (i) to invest the property of the scheme only in one or more of the following:
 - (A) deposits as defined in section 4B(4) of the Banking Act (Cap. 19);
 - (B) gold certificates, gold savings accounts or physical gold;

THE SCHEDULE — *continued*

- (C) any capital markets products belonging to a class of capital markets products mentioned in paragraph 1(a) to (j);
 - (D) any product, instrument, contract or arrangement (other than the capital markets products belonging to the classes of capital markets products mentioned in paragraph 1(a) to (j)) if the investment in such product, instrument, contract or arrangement (as the case may be) is solely for the purpose of hedging or efficient portfolio management; or
- (ii) to invest the property of the scheme as follows:
- (A) except where sub-paragraph (B) applies, the manager must invest only in one or more products, instruments, contracts or arrangements mentioned in sub-paragraph (i);
 - (B) the manager may invest in some other product, instrument, contract or arrangement if —
 - (BA) there is any change in any written law, regulation, direction, rule or non-statutory instrument of the jurisdiction where the scheme is constituted, operating or investing; and
 - (BB) following such change, the manager is restricted or prohibited from investing in any of the products, instruments, contracts or arrangements mentioned in sub-paragraph (i),

and, in the case of either sub-paragraph (i) or (ii), the manager invests the property of the scheme only in one or more of the products, instruments, contracts or arrangements mentioned in sub-paragraph (i).

3. Where, under paragraph 2, the manager of the collective investment scheme invests the property of the scheme in any product, instrument, contract or arrangement not mentioned in paragraph 2(b)(i), whether or not in accordance with a requirement mentioned in paragraph 2(b)(ii)(B), then the units in the collective investment scheme cease to be prescribed capital markets products with effect from the date of the investment.

THE SCHEDULE — *continued*

4. In this Schedule, unless the context otherwise requires —

“asset-backed securities” has the same meaning as in section 262(3) of the Act;

“business trust” has the same meaning as in section 2 of the Business Trusts Act (Cap. 31A);

“CIS documents”, in relation to a collective investment scheme, means —

- (a) the constitutive documents of the collective investment scheme;
- (b) the prospectus issued in connection with an offer of units in the collective investment scheme; or
- (c) any other document issued in connection with an offer of units in the collective investment scheme that does not need to be made in or be accompanied by a prospectus under section 296 of the Act;

“Code on Collective Investment Schemes” means the Code on Collective Investment Schemes issued under section 284 of the Act;

“structured notes” has the same meaning as in regulation 2(1) of the Securities and Futures (Offers of Investments) (Shares and Debentures) Regulations 2005 (G.N. No. S 611/2005);

“unit” —

- (a) for the purposes of paragraph 1(b), has the same meaning as in section 239(1) of the Act; and
- (b) for the purposes of paragraph 1(d), (e), (f) and (g), has the same meaning as in section 2(1) of the Act.

Made on 6 June 2018.

RAVI MENON
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Monetary Authority of Singapore.

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