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SECURITIES AND FUTURES ACT 2001

SECURITIES AND FUTURES (CLEARING FACILITIES OF APPROVED EXCHANGES OR RECOGNISED MARKET OPERATORS) (EXEMPTION) REGULATIONS 2023

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation and commencement
 2. Exemption
 3. Obligation to notify Authority
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In exercise of the powers conferred by section 81Q, read with section 49(6), of the Securities and Futures Act 2001, the Monetary Authority of Singapore makes the following Regulations:

Citation and commencement

1. These Regulations are the Securities and Futures (Clearing Facilities of Approved Exchanges or Recognised Market Operators) (Exemption) Regulations 2023 and come into operation on 7 September 2023.

Exemption

2.—(1) Subject to paragraph (2), an approved exchange or a recognised market operator which establishes or operates a clearing facility is exempt from section 49(1) of the Act.

(2) The exemption mentioned in paragraph (1) applies if —

- (a) every transaction that is to be cleared or settled using the clearing facility —

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- (i) is executed on an organised market that is established or operated by the approved exchange or recognised market operator, as the case may be; and
 - (ii) is not routed by the approved exchange or recognised market operator (as the case may be) to any of the following for clearance or settlement:
 - (A) an approved clearing house;
 - (B) a recognised clearing house;
 - (C) a person (other than the approved exchange or recognised market operator mentioned in paragraph (1), as the case may be) who operates a clearing facility; and
- (b) every transaction that is to be cleared or settled using the clearing facility is only cleared or settled in either or both of the following ways:
- (i) information relating to the terms of the transaction is verified by the clearing facility with a view to confirming the transaction;
 - (ii) the obligations of parties under the transaction are calculated, whether or not such calculations include multilateral netting arrangements.
- (3) The exemption mentioned in paragraph (1) ceases if any transaction that is cleared or settled using the clearing facility —
- (a) is not executed on an organised market established or operated by the approved exchange or recognised market operator mentioned in paragraph (1), as the case may be;
 - (b) is routed by the approved exchange or recognised market operator (as the case may be) to any of the following for clearance or settlement:
 - (i) an approved clearing house;
 - (ii) a recognised clearing house;

- (iii) a person (other than the approved exchange or recognised market operator mentioned in paragraph (1), as the case may be) who operates a clearing facility; or
- (c) is not cleared or settled in the manner specified in paragraph (2)(b).

Obligation to notify Authority

3.—(1) The approved exchange or recognised market operator which is exempt under regulation 2(1) (called in this regulation the exempt person) in respect of the establishment of a clearing facility must —

- (a) if the exempt person had established the clearing facility before 7 September 2023 — notify the Authority in writing of this fact and its reliance on the exemption mentioned in that provision by 7 October 2023; or
- (b) if the exempt person establishes the clearing facility on or after 7 September 2023 — notify the Authority in writing of the exempt person’s establishment of the clearing facility and its reliance on the exemption mentioned in that provision, within 14 days after the date on which the clearing facility is established.

(2) The exempt person in respect of the operation of a clearing facility must —

- (a) if the exempt person had commenced operation of the clearing facility before 7 September 2023 — notify the Authority in writing of this fact and its reliance on the exemption under regulation 2(1) by 7 October 2023; or
- (b) if the exempt person commences the operation of the clearing facility on or after 7 September 2023 — notify the Authority in writing of the exempt person’s commencement of the operation of the clearing facility and its reliance on the exemption under regulation 2(1), within 14 days after the date of the commencement.

(3) An approved exchange or a recognised market operator which fails to comply with paragraph (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$150,000 and, in the case of a continuing offence, to a further fine not exceeding \$15,000 for every day or part of a day during which the offence continues after conviction.

Made on 24 August 2023.

RAVI MENON
Managing Director,
Monetary Authority of Singapore.

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