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SECURITIES AND FUTURES ACT (CHAPTER 289)

SECURITIES AND FUTURES (CLASSES OF INVESTORS) REGULATIONS 2018

ARRANGEMENT OF REGULATIONS

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The Schedules

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.—(1) These Regulations are the Securities and Futures (Classes of Investors) Regulations 2018.

(2) Regulations 4 and 5(1) come into operation on 8 October 2018.

(3) Regulations 2, 3 and 5(2), (3) and (4) come into operation on 8 January 2019.

Persons prescribed for definition of “accredited investor”

2.—(1) For the purposes of section 4A(1)(a)(iii) of the Act, the following trusts are prescribed:

- (a) any trust all the beneficiaries of which are accredited investors within the meaning of section 4A(1)(a)(i), (ii) or (iv) of the Act;
- (b) any trust all the settlors of which —
 - (i) are accredited investors within the meaning of section 4A(1)(a)(i), (ii) or (iv) of the Act;
 - (ii) have reserved to themselves all powers of investment and asset management functions under the trust; and
 - (iii) have reserved to themselves the power to revoke the trust;
- (c) any trust the subject matter of which exceeds \$10 million (or its equivalent in a foreign currency) in value.

(2) For the purposes of section 4A(1)(a)(iv) of the Act, the following persons are prescribed:

- (a) an entity (other than a corporation) with net assets exceeding \$10 million (or its equivalent in a foreign currency) in value;
- (b) a partnership (other than a limited liability partnership) in which every partner is an accredited investor;
- (c) a corporation the entire share capital of which is owned by one or more persons, all of whom are accredited investors;
- (d) a person who holds a joint account with an accredited investor, in respect of dealings through that joint account.

(3) To avoid doubt, any reference to “trust” in paragraph (1)(a), (b) and (c) includes a bare trust.

Modifications to definition of “accredited investor” for purposes of specified provisions of Act and Securities and Futures (Licensing and Conduct of Business) Regulations

3.—(1) The modified definition of “accredited investor” in paragraph (2) applies for the purposes of the following provisions:

- (a) section 186(1) of the Act;
- (b) paragraph (a) of the definition of “relevant person” in section 275(2) of the Act, for the purposes of sections 251(3) and (4)(a), 275(1) and 276(1)(b), (2)(b), (3)(i)(A) and (4)(i)(A) of the Act;
- (c) paragraph (a) of the definition of “relevant person” in section 305(5) of the Act, for the purposes of sections 300(2A) and (2B)(a), 305(1) and 305A(1)(b), (2)(i)(A) and (3)(i)(A) of the Act;
- (d) the definition of “retail customer” in regulation 2 of the Securities and Futures (Licensing and Conduct of Business) Regulations (Rg 10), for the purposes of regulations 16(1)(b) and (ba) and (3), 17(2), 18A, 19, 20A, 21(2), 26(1)(a), 27A, 34(2), 34A, 35(2), 47BA and 47E(1), (2) and (4) of those Regulations;
- (e) the definition of “client or member of the public” in regulation 3A(7) of the Securities and Futures (Licensing and Conduct of Business) Regulations, for the purposes of paragraph (5)(c), (d) and (e) of that regulation;
- (f) regulations 7(2)(b) and (3), 13B(4)(b)(ii), 33(3), 40(1A)(b), 45(2), (6) and (7), 47A(3)(a)(i), 47DA(3)(a), 54B(1) and 65 of the Securities and Futures (Licensing and Conduct of Business) Regulations;
- (g) paragraph (d) of the definition of “venture capital fund” in regulation 14(8) of the Securities and Futures (Licensing and Conduct of Business) Regulations;
- (h) the definition of “qualified investor” in paragraph 1 of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations;

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- (i) paragraphs 2(1)(e) and (n), 3(1)(d)(ii) and (4)(a), 3A(1)(b) and (d)(ii) and (4)(a), 5(2) and (3) and 7(1)(a), (b) and (c) and (5) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations.

(2) Any of the following persons is an accredited investor in relation to a counterparty for the purposes of all the provisions mentioned in paragraph (1), if the person has opted to be treated by the counterparty as an accredited investor for all the consent provisions:

- (a) an individual mentioned in section 4A(1)(a)(i) of the Act;
- (b) a corporation mentioned in section 4A(1)(a)(ii) of the Act;
- (c) a trustee mentioned in section 4A(1)(a)(iii) of the Act;
- (d) a person mentioned in section 4A(1)(a)(iv) of the Act.

(3) For the purposes of paragraph (2), an individual, corporation, trustee or person (called in this paragraph *A*) opts to be treated by a counterparty as an accredited investor for all the consent provisions if —

- (a) *A* is, and has been assessed by the counterparty to be —
 - (i) an individual mentioned in section 4A(1)(a)(i) of the Act;
 - (ii) a corporation mentioned in section 4A(1)(a)(ii) of the Act;
 - (iii) a trustee mentioned in section 4A(1)(a)(iii) of the Act; or
 - (iv) a person mentioned in section 4A(1)(a)(iv) of the Act,

as the case may be;

- (b) the counterparty has provided to *A* the following statements in writing:
 - (i) a statement that the counterparty has assessed *A* to be a person mentioned in section 4A(1)(a)(i), (ii), (iii) or (iv) of the Act;

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- (ii) a statement that *A* may consent to being treated by the counterparty as an accredited investor for the purposes of all of the consent provisions;
 - (iii) a statement that, if *A* consents in accordance with the statement mentioned in sub-paragraph (ii), *A* may at any time withdraw his or her consent, upon which the counterparty must not (after the period of time specified in the statement) treat *A* as an accredited investor for the purposes of all of the consent provisions;
 - (iv) the general warning set out in the First Schedule;
 - (v) a clear explanation in plain language of the effect under the applicable consent provisions of *A* being treated by the counterparty as an accredited investor, in sufficient detail as to enable *A* to make an informed decision whether to opt to be treated by the counterparty as an accredited investor;
- (c) *A*, having been provided with the statements mentioned in sub-paragraph (b), has given the counterparty a statement in writing, or signed a statement recorded by the counterparty in writing, the effect of which is that —
- (i) *A* knows and understands the consequences of consenting to being treated by the counterparty as an accredited investor for the purposes of all of the consent provisions;
 - (ii) *A* consents to being treated by the counterparty as an accredited investor for the purposes of all of the consent provisions; and
 - (iii) *A* knows that *A* may at any time withdraw his or her consent given under sub-paragraph (ii), upon which the counterparty must not (after the period of time specified in the statement mentioned in sub-paragraph (b)(iii)) treat *A* as an accredited investor for the purposes of any consent provision; and

(d) *A* —

- (i) has not notified the counterparty that he or she withdraws his or her consent under sub-paragraph (c)(ii); or
- (ii) has notified the counterparty that he or she withdraws his or her consent under sub-paragraph (c)(ii), but the period of time specified in the statement mentioned in sub-paragraph (b)(iii) has not passed.

(4) Despite paragraph (3), for the purposes of paragraph (2), a corporation, trustee, entity or partnership (called in this paragraph *A*) is treated as having opted to be treated by a counterparty as an accredited investor for all the consent provisions if —

(a) *A* is, and has been assessed by the counterparty to be —

- (i) a corporation mentioned in section 4A(1)(a)(ii) of the Act;
- (ii) a trustee mentioned in section 4A(1)(a)(iii) of the Act;
- (iii) an entity prescribed under regulation 2(2)(a) for the purposes of section 4A(1)(a)(iv) of the Act;
- (iv) a partnership prescribed under regulation 2(2)(b) for the purposes of section 4A(1)(a)(iv) of the Act; or
- (v) a corporation prescribed under regulation 2(2)(c) for the purposes of section 4A(1)(a)(iv) of the Act;

(b) *A* is an existing customer of the counterparty;

(c) the counterparty has provided to *A* the following statements in writing:

- (i) a statement that the counterparty has assessed *A* to be a person mentioned in section 4A(1)(a)(ii), (iii) or (iv) of the Act;
- (ii) a statement that the counterparty intends to continue to treat *A* as an accredited investor for the purposes of

all of the consent provisions, starting on a date specified in the statement;

- (iii) a statement that *A* may at any time notify the counterparty that *A* does not consent to being treated by the counterparty as an accredited investor for the purposes of all of the consent provisions, upon which the counterparty must not (after the period of time specified in the statement) treat *A* as an accredited investor for the purposes of all of the consent provisions;
 - (iv) the general warning set out in the First Schedule;
 - (v) a clear explanation in plain language of the effect under the applicable consent provisions of *A* being treated by the counterparty as an accredited investor, in sufficient detail as to enable *A* to make an informed decision whether to give the notification of no consent mentioned in sub-paragraph (d)(ii);
- (d) *A*, having been provided with the statements mentioned in sub-paragraph (c) —
- (i) has not notified the counterparty that *A* does not consent to being treated by the counterparty as an accredited investor for the purposes of all of the consent provisions; or
 - (ii) has notified the counterparty that *A* does not consent to being treated by the counterparty as an accredited investor for the purposes of all of the consent provisions, but the period of time specified in the statement mentioned in sub-paragraph (c)(iii) has not passed; and
- (e) the counterparty has recorded in writing the fact mentioned in sub-paragraph (d)(i) or (ii), as the case may be.

(5) Despite paragraph (3), for the purposes of paragraph (2), an individual or person (called in this paragraph *A*) is treated on or before 8 July 2020 as having opted to be treated by a counterparty as an accredited investor for all the consent provisions if —

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- (a) *A* is, and has been assessed by the counterparty to be —
- (i) an individual mentioned in section 4A(1)(a)(i) of the Act; or
 - (ii) a person prescribed under regulation 2(2)(d) for the purposes of section 4A(1)(a)(iv) of the Act;
- (b) *A* is an existing customer of the counterparty;
- (c) the counterparty has provided to *A* the following statements in writing:
- (i) a statement that the counterparty has assessed *A* to be —
 - (A) an individual mentioned in section 4A(1)(a)(i) of the Act; or
 - (B) a person prescribed under regulation 2(2)(d) for the purposes of section 4A(1)(a)(iv) of the Act;
 - (ii) a statement that the counterparty intends to continue to treat *A* as an accredited investor for the purposes of all of the consent provisions, starting on a date specified in the statement and ending on 8 July 2020;
 - (iii) a statement that *A* may at any time notify the counterparty that *A* does not consent to being treated by the counterparty as an accredited investor for the purposes of all of the consent provisions, upon which the counterparty must not (after the period of time specified in the statement) treat *A* as an accredited investor for the purposes of all of the consent provisions;
 - (iv) the general warning set out in the First Schedule;
 - (v) a clear explanation in plain language of the effect under the applicable consent provisions of *A* being treated by the counterparty as an accredited investor, in sufficient detail as to enable *A* to make an informed decision whether to give the notification of no consent mentioned in sub-paragraph (d)(ii);

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- (d) *A*, having been provided with the statements mentioned in sub-paragraph (c) —
- (i) has not notified the counterparty that *A* does not consent to being treated by the counterparty as an accredited investor for the purposes of all of the consent provisions; or
 - (ii) has notified the counterparty that *A* does not consent to being treated by the counterparty as an accredited investor for the purposes of all of the consent provisions, but the period of time specified in the statement mentioned in sub-paragraph (c)(iii) has not passed; and
- (e) the counterparty has recorded in writing the fact mentioned in sub-paragraph (d)(i) or (ii), as the case may be.
- (6) To avoid doubt —
- (a) any notification of withdrawal of consent mentioned in paragraph (3)(d)(ii) does not affect any transaction entered into before the period of time specified in the statement mentioned in paragraph (3)(b)(iii) has passed; and
 - (b) any notification of no consent mentioned in paragraph (4)(d)(ii) or (5)(d)(ii) does not affect any transaction entered into before the period of time specified in the statement mentioned in paragraph (4)(c)(iii) or (5)(c)(iii) (as the case may be) has passed.
- (7) To avoid doubt, for the purposes of paragraph (2), a person may opt to be treated by one counterparty as an accredited investor for all the consent provisions but opt not to be treated by another counterparty as an accredited investor for all the consent provisions.
- (8) For the purposes of paragraphs (3)(b)(v), (4)(c)(v) and (5)(c)(v), a mere reproduction, restatement, paraphrase or translation of all or any of the consent provisions is not a clear explanation in plain language of the effect under the applicable consent provisions of a person being treated by a counterparty as an accredited investor.

(9) In this regulation —

“consent provision” means any of the following:

- (a) section 186(1) of the Act;
- (b) paragraph (a) of the definition of “relevant person” in section 275(2) of the Act, for the purposes of section 251(3) or (4)(a), 275(1) or 276(1)(b), (2)(b), (3)(i)(A) or (4)(i)(A) of the Act;
- (c) paragraph (a) of the definition of “relevant person” in section 305(5) of the Act, for the purposes of section 300(2A) or (2B)(a), 305(1) or 305A(1)(b), (2)(i)(A) or (3)(i)(A) of the Act;
- (d) the definition of “retail customer” in regulation 2 of the Securities and Futures (Licensing and Conduct of Business) Regulations, for the purposes of regulation 16(1)(b) or (ba), 17(2), 18A, 19, 20A, 21(2), 26(1)(a), 27A, 34(2), 34A, 35(2), 47BA or 47E(1), (2) or (4) of those Regulations;
- (e) the definition of “client or member of the public” in regulation 3A(7) of the Securities and Futures (Licensing and Conduct of Business) Regulations, for the purposes of paragraph (5)(c), (d) or (e) of that regulation;
- (f) regulation 7(3), 13B(4)(b)(ii), 33(3), 40(1A)(b), 45(2) or (7), 47A(3)(a)(i) or 47DA(3)(a) of the Securities and Futures (Licensing and Conduct of Business) Regulations;
- (g) regulation 4A(6), 28(1)(b), 32C(1)(d), 33(1)(a) or (2), 34(1)(a) or (2), 34A(1)(d)(i) or 35(1)(a)(ii) or (2) of the Financial Advisers Regulations (Cap. 110, Rg 2);
- (h) the definition of “targeted client” in regulation 18B(9) of the Financial Advisers Regulations;

“counterparty” means any of the following:

- (a) a member of an approved exchange, of which *A* is a customer, that keeps and administers a fidelity fund under section 176(1) of the Act;
- (b) a person who intends to disseminate a preliminary document to *A* under section 251(3) of the Act;
- (c) a person who intends to present to *A* oral or written material on matters contained in a preliminary document under section 251(4) of the Act;
- (d) a person who intends to make an offer of securities, securities-based derivatives contracts or units in a collective investment scheme mentioned in section 275(1) or 305(1) of the Act to *A*;
- (e) a person who intends to sell, or intends to make an offer resulting in a sale of, securities or securities-based derivatives contracts mentioned in section 276(1) or (2) of the Act to *A*;
- (f) a person who intends to transfer securities or securities-based derivatives contracts of a corporation mentioned in section 276(3) or 305A(2) of the Act to *A*;
- (g) a person who intends to transfer beneficiaries’ rights and interest (howsoever described) in a trust mentioned in section 276(4) or 305A(3) of the Act to *A*;
- (h) a person who intends to first sell, or intends to make an offer resulting in a first sale of, units in a collective investment scheme mentioned in section 305A(1) of the Act to *A*;
- (i) a holder of a capital markets services licence, or an exempt person, of which *A* is a customer or potential customer;

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- (j) a financial adviser under the Financial Advisers Act (Cap. 110), of which *A* is a customer or potential customer;
 - (k) a financial adviser under the Financial Advisers Act who intends to sell or market a new product to *A*;
 - (l) a licensed financial adviser or exempt financial adviser under the Financial Advisers Act who intends to send a circular or other similar written communication to *A* in which a recommendation is made in respect of any specified products under regulation 35(1) of the Financial Advisers Regulations;

“existing customer”, in relation to any person, means any other person —

- (a) with whom the firstmentioned person entered into transactions immediately before 8 April 2019; and
- (b) who was treated by the firstmentioned person as an accredited investor in those transactions;

“new product” has the meaning given by regulation 18B(9) of the Financial Advisers Regulations.

[S 31/2018 wef 08/04/2019]

Persons prescribed for purposes of definition of “institutional investor”

4.—(1) The statutory boards set out in the Second Schedule are prescribed for the purposes of section 4A(1)(c)(ii) of the Act.

(2) The multilateral agencies, international organisations and supranational agencies set out in the Third Schedule are prescribed for the purposes of section 4A(1)(c)(viii) of the Act.

(3) The following persons are prescribed for the purposes of section 4A(1)(c)(xxvii) of the Act:

- (a) a designated market-maker;
- (b) a headquarters company or Finance and Treasury Centre which carries on a class of business involving fund

management, where such business has been approved as a qualifying service in relation to that headquarters company or Finance and Treasury Centre under section 43E(2)(a) or 43G(2)(a) of the Income Tax Act (Cap. 134);

- (c) a person who undertakes fund management activity (whether in Singapore or elsewhere) on behalf of not more than 30 qualified investors;
- (d) a Service Company which carries on business as an agent of a member of Lloyd's;
- (e) a corporation the entire share capital of which is owned by an institutional investor or by persons all of whom are institutional investors;
- (f) a partnership (other than a limited liability partnership within the meaning of the Limited Liability Partnerships Act (Cap. 163A)) in which each partner is an institutional investor.

(4) In paragraph (3) —

“agent”, in relation to a member of Lloyd's, “Lloyd's”, “member of Lloyd's” and “Service Company” have the meanings given by regulation 2 of the Insurance (Lloyd's Asia Scheme) Regulations (Cap. 142, Rg 9);

“designated market-maker”, “Finance and Treasury Centre” and “headquarters company” have the meanings given by paragraph 1 of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations;

“qualified investor” has the meaning given by paragraph 5(3) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations.

Revocation and saving provisions

5.—(1) Regulations 3 and 4 of the Securities and Futures (Prescribed Specific Classes of Investors) Regulations 2005 (G.N. No. S 369/2005) (called in this regulation the 2005 Regulations) are revoked.

(2) The 2005 Regulations are revoked.

(3) Despite paragraph (2), a person mentioned in regulation 2 of the 2005 Regulations continues to be an accredited investor in respect of any transaction entered into before 8 January 2019.

[S 30/2019 wef 08/01/2019]

(4) Despite paragraph (2), a person mentioned in regulation 2 of the 2005 Regulations continues to be an accredited investor in respect of any transaction that —

(a) is entered into between —

(i) a holder of a capital markets services licence to carry on business in fund management, or a person exempt from the requirement to hold a capital markets services licence to carry on such business, in the course of that business; and

(ii) the person, as a customer; and

(b) only involves funds —

(i) that were transferred to the holder of a capital markets services licence, or to the person exempt from the requirement to hold a capital markets services licence (as the case may be) before 8 January 2019; or

(ii) in respect of which an agreement has been entered into before 8 January 2019 to transfer those funds to the holder of a capital markets services licence, or to the person exempt from the requirement to hold a capital markets services licence, as the case may be.

[S 30/2019 wef 08/01/2019]

FIRST SCHEDULE

Regulation 3(3)(b)(iv),
(4)(c)(iv) and (5)(c)(iv)

GENERAL WARNING

Accredited investors are assumed to be better informed, and better able to access resources to protect their own interests, and therefore require less regulatory protection. Investors who agree to be treated as accredited investors

FIRST SCHEDULE — *continued*

therefore forgo the benefit of certain regulatory safeguards. For example, issuers of securities are exempted from issuing a full prospectus registered with the Monetary Authority of Singapore in respect of offers that are made only to accredited investors, and intermediaries are exempted from a number of business conduct requirements when dealing with accredited investors. Investors should consult a professional adviser if they do not understand any consequence of being treated as an accredited investor.

[S 31/2018 wef 08/04/2019]

SECOND SCHEDULE

Regulation 4(1)

STATUTORY BOARDS PRESCRIBED FOR PURPOSES OF
SECTION 4A(1)(c)(II) OF ACT

1. Accounting and Corporate Regulatory Authority
2. Agency for Science, Technology and Research
3. Agri-Food and Veterinary Authority
4. Board of Architects
5. Building and Construction Authority
6. Casino Regulatory Authority
7. Central Provident Fund Board
8. Civil Aviation Authority of Singapore
9. Civil Service College
10. Competition and Consumer Commission of Singapore
11. Council for Estate Agencies
12. Defence Science and Technology Agency
13. Economic Development Board
14. Energy Market Authority
15. Enterprise Singapore Board
16. Government Technology Agency
17. Health Promotion Board
18. Health Sciences Authority
19. Hindu Endowments Board

SECOND SCHEDULE — *continued*

20. Hotels Licensing Board
21. Housing and Development Board
22. Info-communications Media Development Authority
23. Inland Revenue Authority of Singapore
24. ISEAS-Yusof Ishak Institute
25. Institute of Technical Education, Singapore
26. Intellectual Property Office of Singapore
27. Jurong Town Corporation
28. Land Surveyors Board
29. Land Transport Authority of Singapore
30. Majlis Ugama Islam, Singapura
31. Maritime and Port Authority of Singapore
32. Monetary Authority of Singapore
33. Nanyang Polytechnic
34. National Arts Council
35. National Council of Social Service
36. National Environment Agency
37. National Heritage Board
38. National Library Board
39. National Parks Board
40. Ngee Ann Polytechnic
41. People's Association
42. Professional Engineers Board
43. Public Transport Council
44. Public Utilities Board
45. Republic Polytechnic
46. Science Centre Board
47. Sentosa Development Corporation
48. Singapore Corporation of Rehabilitative Enterprises

SECOND SCHEDULE — *continued*

49. Singapore Dental Council
50. Singapore Examinations and Assessment Board
51. Singapore Labour Foundation
52. Singapore Land Authority
53. Singapore Medical Council
54. Singapore Nursing Board
55. Singapore Pharmacy Council
56. Singapore Polytechnic
57. Singapore Sports Council
58. Singapore Totalisator Board
59. Singapore Tourism Board
60. SkillsFuture Singapore Agency
61. Standards, Productivity and Innovation Board
62. Temasek Polytechnic
63. Traditional Chinese Medicine Practitioners Board
64. Urban Redevelopment Authority
65. Workforce Singapore Agency

THIRD SCHEDULE

Regulation 4(2)

MULTILATERAL AGENCIES, INTERNATIONAL ORGANISATIONS AND
SUPRANATIONAL ENTITIES PRESCRIBED FOR PURPOSES OF
SECTION 4A(1)(c)(VIII) OF ACT

1. African Development Bank
2. Asian Development Bank
3. Asian Infrastructure Investment Bank
4. Bank for International Settlements
5. European Bank for Reconstruction and Development
6. European Economic Community
7. European Investment Bank

THIRD SCHEDULE — *continued*

8. Inter-American Development Bank
9. International Bank for Reconstruction and Development (World Bank)
10. International Finance Corporation
11. International Monetary Fund

Made on 4 October 2018.

RAVI MENON
Managing Director,
Monetary Authority of Singapore.

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