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SECURITIES AND FUTURES ACT (CHAPTER 289)

SECURITIES AND FUTURES (CLASSES OF INVESTORS) (AMENDMENT NO. 2) REGULATIONS 2019

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 No. 2) Regulations 2019 and come into operation on 8 April 2019.

New regulation 3

2. The Securities and Futures (Classes of Investors) Regulations 2018 (G.N. No. S 665/2018) are amended by inserting, immediately after regulation 2, the following regulation:

“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;

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- (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;
 - (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;
 - (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;

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- (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: