

Updated conditions for single family offices applying for the 13O and 13U tax incentives (with effect from July 5, 2023)

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To all family office advisors and clients: This important alert relates to new Monetary Authority of Singapore conditions which took effect from 5 July 2023.

Introduction

The Monetary Authority of Singapore (the **MAS**) recently issued new guidelines on the updated conditions for a Fund Company (the **Fund**) of a Single-Family Office (**SFO**) that wishes to apply for the Section 13O or the Section 13U Tax Incentive Schemes under the Income Tax Act 1947 (respectively, the **13O Scheme** and the **13U Scheme**). One of the key rationales behind these changes is to expand the scope of the tax incentives for family offices in Singapore, to encourage SFOs to deploy capital in Singapore towards purposeful environmental and social causes.

In our view, these updates are well-timed and well thought-out, as they make the 13O and 13U Schemes more conducive by allowing SFOs more flexibility in meeting certain conditions, such as the annual minimum spending requirement as well as the local investment requirement (now referred to as the Capital Deployment Requirement). At the same time, the introduction of these updated conditions will likely result in fewer, but higher quality, applicants.

Scope of the Updated Conditions

These updated conditions apply to Funds that submit Annex A (the Preliminary Application) to the MAS after 5 July 2023 (**Updated Conditions**). For the avoidance of doubt, Funds that have already been issued with the Letter of Award before 5 July 2023 will not be subjected to the Updated Conditions (referred to as **Existing Funds**). However, Existing Funds can still choose to opt-in to fulfil the conditions under the Tiered Spending Framework and Capital Deployment Requirement when submitting their annual declaration due after 5 July 2023.

The Updated Conditions will also not apply to Funds which hold assets for or on behalf of third parties outside of the family, or investment funds set up by other types of applicants (e.g., funds managed by licenced/registered fund managers, etc.).

Updated Conditions for the 13O and 13U Schemes

Minimum Assets Under Management (AUM)

Previously, as of 18 April 2022, the MAS stipulated that Funds applying for the 13O Scheme had to have a minimum fund size of S\$10 million at the point of application, and the Fund had to commit to increase its AUM to

S\$20 million within a two-year grace period. Funds applying for the 13U Scheme on the other hand, had to have a minimum fund size of S\$50 million at the point of application.

Key Changes:

- The minimum fund size for the 13O Scheme is now S\$20 million **at the point of application and throughout the incentive period**.
- The minimum fund size for the 13U Scheme remains unchanged at S\$50 million at the point of application and **throughout the incentive period**.

With this update, there is **no longer a grace period** for a Fund applying for the 13O Scheme to meet the S\$20 million minimum AUM. In fact, the MAS has further clarified that existing Funds which are subjected to the 18 April 2022 conditions **must** meet the S\$20 million minimum AUM within the two-year grace period; Funds that are unable to do so will have their 13O tax incentive revoked.

More importantly, the MAS now requires Funds to maintain the applicable minimum AUM throughout the life of the Fund, in order to avail of the 13O or 13U tax incentive. This is significant as clients who wish to set up their SFOs in Singapore must now plan for a buffer in the event of a market downturn, which may reduce their Fund's AUM below the prescribed minimum AUM. Practically, as Funds are only required to submit an annual declaration to the MAS at the end of each basis period, this means that clients would need to monitor the Fund's AUM closely towards the end of the basis period and top up the Fund's AUM if necessary, or risk not enjoying the tax incentive for that particular basis period.

For the avoidance of doubt, notwithstanding the removal of the grace period, Funds applying for the 13O Scheme are still not permitted to acquire investments before the commencement date of the 13O tax incentive scheme. This is regardless of whether the Fund derives any income from the investment or not.

Investment Professionals (IPs)

IPs are individuals employed by the family office as (i) portfolio managers; (ii) research analysts; or (iii) traders:

- who are earning more than S\$3,500 per month;
- have the relevant formal work experience or academic qualifications; and
- must be engaging substantially in the qualifying activity.

Key Changes:

- **13O Scheme** – The Fund must be managed or advised by an SFO that employs at least two (2) IPs at the point of application and throughout the tax incentive period. **At least one of the two (2) IPs cannot be a family member of the beneficial owner(s) of the SFO.**
- **13U Scheme** (remains unchanged) – The Fund must be managed or advised by an SFO that employs at least three (3) IPs at the point of application and throughout the tax incentive period. At least one of the three (3) IPs cannot be a family member of the beneficial owner(s) of the SFO.

This update aligns the policy objective behind the 13O and 13U Schemes to increase the professionalism of SFOs operating in Singapore. Moreover, by requiring SFOs to employ non-family members to act as their investment professionals, it is clear that the MAS intends to provide more job opportunities for locals in Singapore's burgeoning wealth management industry.

Accordingly, to assess whether an IP is qualified for the purposes of the 13O and 13U Schemes, the MAS would look at whether the IP has formal work experience in investment management roles or formal work experience in mergers and acquisitions roles (if the Fund has a focus on private equity, venture capital and/or direct investments), **or** whether the IP has a degree in finance or professional certification (e.g., CMFAS or CFA). As a concession and on a case-by-case basis, wealth creators (i.e., the Ultimate Beneficial Owner of the family office that contributes the AUM for the Fund) who may not have the relevant formal work experience or academic qualifications may qualify as an IP if they can demonstrate that they have sufficient experience in managing their own personal wealth (e.g., managing their own personal portfolio).

It should also be noted that the Updated Conditions emphasise that IPs must be tax resident in Singapore, and if an individual is not considered as a Singapore tax resident for any Year of Assessment (**YA**), that individual will not count as an IP for that YA. In other words, apart from ensuring that IPs are substantially engaged in the qualifying activities, SFOs must also ensure that their IPs spend at least 183 days in Singapore, or risk not satisfying this condition for that basis period.

Minimum Spending Requirement

Key Changes:

- 13O Scheme – Under the Updated Conditions, Funds will need to incur at least **S\$200,000 in local business spending** in each financial year, subject to the Tiered Spending Requirement Framework (set out in Table 1 below).
- 13U Scheme (unchanged) – Funds will need to incur at least S\$500,000 in local business spending in each financial year, subject to the Tiered Spending Requirement Framework (set out in Table 1 below).

For the 13O Scheme, this is a departure from the previous conditions which required Funds to incur at least S\$200,000 in **total** business spending.

The MAS has specified that local business spending includes but are not limited to expenses paid to local entities such as: remuneration, management fees, tax advisory fees, and operating costs. Expenses such as taxes, penalties, or expenses relating to financing activities are excluded.

Further, to allow Funds to more easily meet this local business spending requirement, Funds can meet the minimum spending requirement via the following:

- (i) donations to Singapore Registered Charities, Exempt Charities, or Institutions of Public Character; and
- (ii) grants (contributions with no return of principal and income) to blended finance structures with substantial involvement of financial institutions in Singapore.

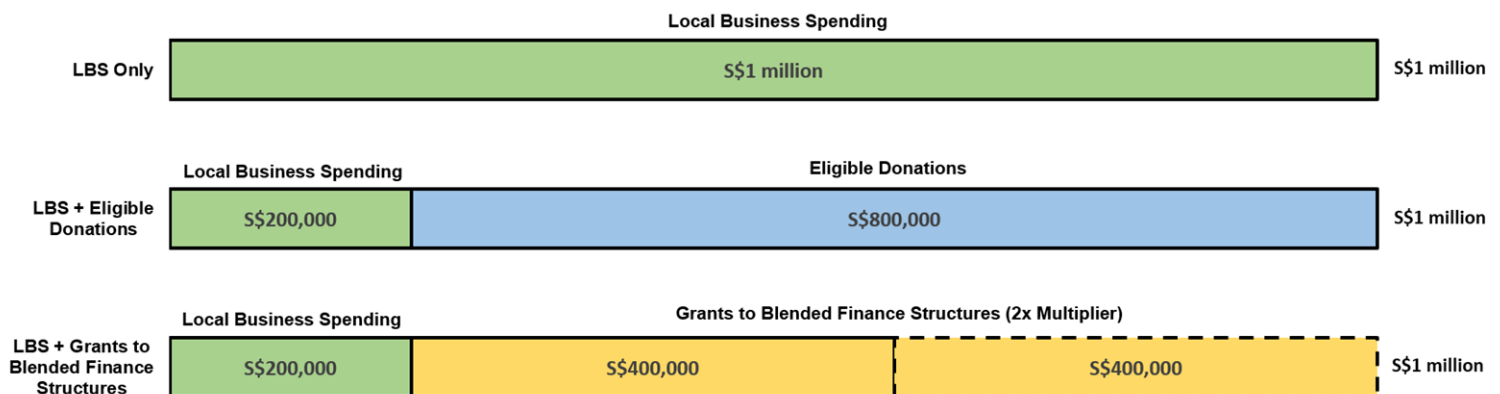
For the avoidance of doubt, all Funds that are subjected to the Updated Conditions for the 13O and 13U Schemes will minimally still need to incur S\$200,000 in local business spending in each basis period. Please refer to the table and graphics below for a visual representation of examples of the minimum spending requirement.

Tiered Spending Requirement Framework

	AUM of the Fund Company		
	AUM less than S\$50 million	AUM more than S\$50 million but less than S\$100million	AUM more than S\$100 million
Spending Requirement in each YA	Minimum Local Business Spending of at least S\$200,000	Minimum Local Business Spending of at least S\$500,000	Minimum Local Business Spending of at least S\$1 million
Spending Requirement may be met by:	Local Business Spending of at least S\$200,000	Local Business Spending of at least S\$200,000 + Eligible Donations to Local Charities + Grants to Blended Finance Structures (2x Multiplier)	

Table 1: Tiered Spending Requirement Framework

For example, a Fund with an AUM of \$100 million will have a minimum spending requirement of S\$1 million, which can be met by any one of the following permutations:



In other words, Funds with a larger AUM now have the flexibility of deciding how the minimum spending requirement should be met.

For clients that are interested in exploring grants to blended finance structure to meet the minimum spending requirement, the MAS has clarified that they will accept any internationally recognised definition to determine whether an investment can be considered a blended finance investment.

For example, we note that the OECD in the Blended Finance Principles Guidance issued on 17 September 2020 defines blended finance as the strategic use of development finance for the mobilisation of additional finance towards sustainable development in developing countries, where additional finance refers to commercial finance that does not primarily target development outcomes in developing countries, while development finance is public and private finance that is being deployed with a development mandate.

To our understanding, blended finance investments combine public and private capital to mobilise financing for projects that are marginally bankable.¹ These projects may include decarbonisation projects, green investments, and generally, investments to achieve social, economic and environmentally sustainable development.² To confirm whether a grant is a blended finance investment, the MAS requires an attestation issued by a prescribed professional body, such as a Singapore-based lawyer registered with the Legal Services Regulatory Authority (**Attestation**). Please feel free to write to any of our key contacts for more information on how we may assist.

Separately, it should also be noted that this update of allowing Funds to meet the minimum local business spending requirement via eligible donations is part of a string of measures that the Singapore government has introduced to promote Singapore as a regional centre for philanthropy and purposeful giving. Interested readers may refer to **our article on the Philanthropic Tax Incentive Scheme** that is offered to SFOs in Singapore, which is meant to complement the existing incentives.

Capital Deployment Requirement (CDR)

Previously, Funds under the 13O and 13U Schemes had to invest at least **10% of their AUM or S\$10 million**, whichever was lower, into local investments at any one point in time. While the Updated Conditions do not raise the quantum of this local investment requirement, the MAS has broadened the list of qualifying local investments to include (new options are bolded, below):

- (a) Equities listed on Singapore-licenced exchanges;
- (b) Qualifying debt securities;
- (c) Non-listed funds distributed by Singapore-licenced/registered financial institutions;
- (d) Investments into non-listed Singapore-incorporated companies with operating business(es) and with substantive presence in Singapore;
- (e) **Climate-related investments**; and
- (f) **Blended finance structures with substantial involvement of Singapore-licensed/registered financial institutions.**

To elaborate, climate-related investments are investments into activities that are defined within the green or transition categories under the Singapore-Asia Taxonomy or any other internationally recognised definitions or taxonomies. For example, based on the public consultation launched by the Green Finance Industry Taskforce convened by the MAS on 15 February 2023, green and transition activities include sectors such as agriculture and forestry, waste and water, and carbon capture and sequestration.³ For the avoidance of doubt, for the purposes of meeting the CDR, climate-related investments can be for overseas purposes.

Similar to grants to blended finance structures, in order to validate that an investment is a climate-related investment, the MAS requires an Attestation issued by a prescribed professional body.

Additionally, do note that the MAS has introduced multipliers to certain investments to make it easier for a Fund to meet the CDR. We outline below eligible investments prescribed by the MAS and the respective multiplier that applies to the said investment:

¹ Ravi Menon (5 October 2022) "Transition Finance towards Net Zero" conference in Singapore.

² OECD DAC Blended Finance Principle 1 Guidance.

³ MAS, (15 February 2023) "Industry Taskforce launches Third Consultation on Green and Transition Taxonomy".

Multiplier	Options
2x	<ol style="list-style-type: none"> Equities listed on MAS-approved exchanges. ETFs with primary mandates to invest in Singapore-listed equities on MAS-approved exchanges. Non-listed funds distributed in Singapore with primary mandates to invest in Singapore-listed equities on MAS-approved exchanges. Deeply concessional capital in blended finance structures with substantial involvement of financial institutions in Singapore.
1.5x	Concessional capital in blended finance structures with substantial involvement of financial institutions in Singapore.

Table 2: Multiplier for certain investments under the Capital Deployment Requirement

According to the MAS guidelines:

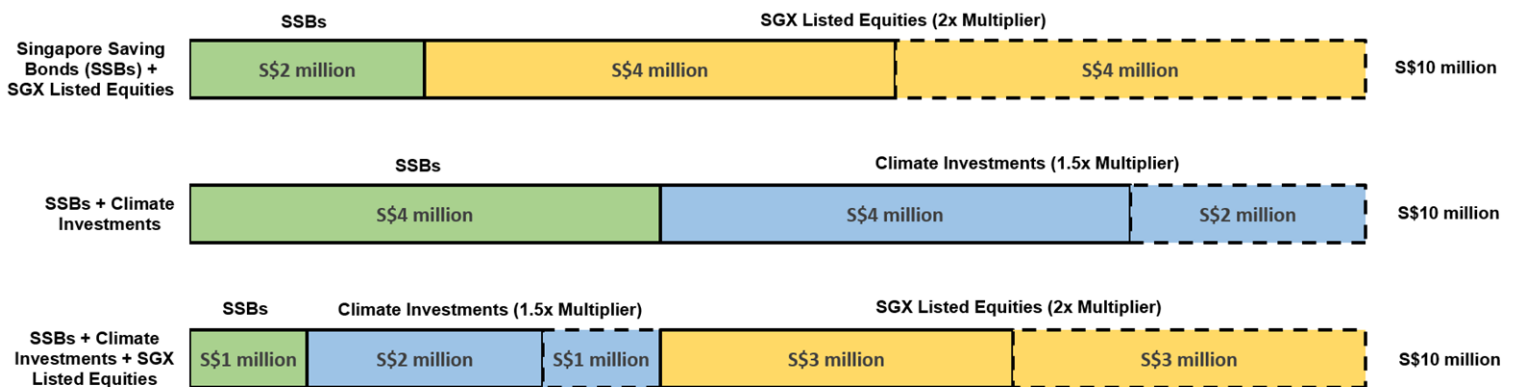
- **Concessional capital** refers to financing where the financier accepts a lower rate of return or higher risk than that which the borrower ordinarily has to offer to financiers seeking commercial risk-adjusted rate of return.
- **Deeply concessional capital** is capital that (i) has zero income earned on the investment; or (ii) bears first loss before any other equity and earns lower return than any other equity or debt.

In order to validate an investment as concessional or deeply concessional capital, the Fund would need to obtain an Attestation issued by a prescribed professional body.

It should be noted that the Fund must meet the CDR by the end of the first full-year Annual Declaration and in each subsequent financial year. Existing Funds are not subjected to the Updated Conditions but can nonetheless opt-in to fulfil the CDR (instead of the local investment requirement under the 18 April 2022 rules) and utilise the multipliers mentioned above when submitting their annual declaration due after 5 July 2023.

For the avoidance of doubt, as per the previous conditions, investments in the form of a controlling stake of the operating entities related to the beneficial owner(s)' family businesses cannot count as part of the Fund's AUM nor towards meeting the CDR.

For ease of reference, please refer to the visual representation below for an example of how the CDR could be met for a Fund with an AUM of S\$100 million (and thus a CDR of S\$10 million):



Summary of the Updated Conditions for the Section 13O & Section 13U Schemes

	13O	13U
Minimum Asset under Management (AUM)	The Fund must have a minimum fund size of S\$20 million at the point of application and throughout the incentive period .	The Fund must have a minimum fund size of S\$50 million at the point of application and throughout the incentive period .
Investment Professionals (IPs)	The Fund must be managed or advised directly throughout each basis period relating to any year of assessment by a family office in Singapore, where the family office employs at least two (2) IPs, with at least one IP being a non-family member .	The Fund must be managed or advised directly throughout each basis period relating to any year of assessment by a family office in Singapore, where the family office employs at least three (3) IPs with at least one IP being a non-family member.
	<ul style="list-style-type: none"> Qualified IPs must be employed as a portfolio manager, research analyst, or trader. Qualified IPs must be Singapore tax residents. Any individual not considered to be a Singapore tax resident cannot count as an IP. 	
Minimum Spending	The Fund must incur at least S\$200,000 in local business spending in each basis period relating to any year of assessment, subject to the Tiered Spending Requirement .	The Fund must incur at least S\$500,000 in local business spending in each basis period relating to any year of assessment, subject to the Tiered Spending Requirement .
	The spending requirement may also be met through eligible donations to local charities and grants to Blended Finance Structures, but a minimum of S\$200,000 must be incurred on local business spending .	
Minimum Capital	The Fund managed by the family office must invest at least 10% of its AUM or S\$10 million , whichever is lower, in: <ul style="list-style-type: none"> (i) Equities listed on Singapore-licensed exchanges; 	

Deployment (CDR)	(ii) Qualifying debt securities; (iii) Funds distributed by Singapore-licensed/registered financial institutions; (iv) Investments into non-listed Singapore-incorporated companies with operating business(es) and with substantive presence in Singapore; (v) Climate-related investments; and (vi) Blended finance structures with substantial involvement of Singapore-licensed/registered financial institutions. Certain investments will be scaled up by a multiplier when computing the CDR, as set out in Table 2 above.	
Private Banking Account	The Fund must have a Private Banking account with a MAS-licensed financial institution.	
Conditions that continue to apply	The Fund must: <ul style="list-style-type: none"> • Be a company incorporated in Singapore • Be a tax resident of Singapore where the control and management of its business is exercised in Singapore • Use a Singapore-based fund administrator • Not derive income from investments transferred from a person that was previously carrying on a business in Singapore, where the income derived by that person would not have been tax-exempted if not for the transfer 	The Fund must: <ul style="list-style-type: none"> • Use a Singapore-based fund administrator if the fund is a company incorporated in Singapore, with its tax residency in Singapore, where the control and management of its business is exercised in Singapore • Not concurrently enjoy other tax incentive schemes
	The Fund must: <ul style="list-style-type: none"> • Be managed or advised directly by a fund management company (FMC) in Singapore, where the FMC must hold a capital markets service licence or be exempt from the requirement to hold such a licence • Not use the fund vehicle to serve other investment purposes 	

Please feel free to contact us should you have questions regarding the updated conditions for the 13O and/or 13U Schemes.

Dentons Rodyk thanks and acknowledges Intern Jeremy Ng for his contributions to this article.

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