The licensing exemption and the 2023 class exemption proposal

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A family office that manages only the assets of a single family does not need a capital markets services licence. The traditional route to the exemption was paragraph 5(1)(b) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations, which exempts a corporation managing funds for its related corporations. Where the family's assets were held through trusts or individuals instead of related corporations, a case-by-case exemption from MAS under section 99(1)(h) of the Securities and Futures Act was added. In July 2023 MAS consulted on a class exemption framework. Under it a single family office would qualify for exemption automatically if it met a definition of "single family office", notified MAS and maintained a Singapore business relationship with a MAS-regulated financial institution that performed anti-money-laundering checks. Annual reporting conditions would complete the framework.[1] The proposal reflected the concern that the old case-by-case route gave MAS no overview of who was operating a family office in Singapore and no anti-money-laundering check at the gate.

For a family whose wealth is in digital assets the licensing exemption matters because its boundaries are also the boundaries of the Payment Services Act. A family office that buys and sells tokens for the family fund does not provide a DPT service

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to others and needs no licence. A family office that lets a second family invest alongside, or that runs a token-trading desk for third parties, has stepped outside the single-family definition and into the licensing perimeter described in Part K. The temptation to "add a friend's capital" is the most common way a family office acquires a licensing problem.[2]

Notes

1. MAS, Consultation Paper on a Proposed Framework for Single Family Offices, 31 July 2023. ↩
2. Securities and Futures Act 2001, s. 82 (requirement for a capital markets services licence) read with the definition of "fund management" in the Second Schedule; Payment Services Act 2019, s. 5 and First Schedule, Part 3 (digital payment token service). ↩

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