

August 2022

Changes to eligibility requirements for key tax incentives utilised by Singapore family offices: a practical guide



Speed read from our Singapore team

On 11 April 2022, the Monetary Authority of Singapore (the "**MAS**") announced updates to the conditions required for fund vehicles managed or advised directly by family offices to qualify for the Section 130 and 13U tax incentive schemes (the "**Updated Conditions**"). In this briefing note, we answer your key questions and discuss the practical impact of the Updated Conditions.

Which family office structures do the Updated Conditions impact?

The Updated Conditions apply to fund vehicles managed or advised directly by a family office that constitute:

- (i) an exempt fund management company managing assets for and on behalf of a family; and
- (ii) are wholly owned or controlled by members of the same family.

Which family office structures do the Updated Conditions NOT impact?

The section 130 and 13U requirements for investment funds set up by other applicants (i.e., non-single family offices) remain unchanged. Families who utilise a licensed fund manager (capital markets services ("**CMS**") licence holder or registered fund management company) will similarly not be affected by the Updated Conditions. Significantly, this means that financial institutions, including private banks who are regulated in Singapore and are exempted from holding a CMS licence for fund management, who act as fund managers to single family offices, will not be affected.

When do the changes come into force?

All new applications submitted to MAS from **18 April 2022** (inclusive) will be subject to the Updated Conditions.

The good news...

Clients who submitted their preliminary submission to MAS **before** 18 April 2022 and received a response from MAS in the last 6 months, will **not** be impacted by the Updated Conditions.

So, what are the Updated Conditions?

In a nutshell, the Updated Conditions effectively make eligibility for the Section 130 and 13U tax incentive schemes more stringent. At this, we aren't surprised, it is in line with MAS' stated aims to increase the competency of family office professionals in Singapore and enhance the Singapore economy.

Section 130 (formerly 13R)

	Current conditions	New conditions (With effect from 18 April 2022)								
Minimum Assets Under Management ("AUM")	No minimum AUM requirement.	New minimum AUM requirement of: a) S\$10 million at the point of application; and b) within a two (2) year period, the fund must increase its AUM to S\$20 million .								
Investment professionals	No prescribed minimum number of Investment Professionals that the family office must employ.	The family office must employ at least two (2) Investment Professionals. A one (1) year grace period is given to the family office to employ the second Investment Professional if it is unable to do so at the point of application.								
Business spending	The fund must incur an annual total business spend of at least S\$200,000.	The annual total business spending remains unchanged for fund with an AUM below S\$50 million. For funds with an AUM above S\$50 million, the amount of annual total business spending is subject to a new "Tiered business spending framework" pegged to AUM size as follows: <table border="1" data-bbox="769 1178 1481 1462"> <thead> <tr> <th>AUM Range</th> <th>Minimum Total Business Spending</th> </tr> </thead> <tbody> <tr> <td>AUM < S\$50m</td> <td>S\$200,000</td> </tr> <tr> <td>S\$50m ≤ AUM < S\$100m</td> <td>S\$500,000</td> </tr> <tr> <td>AUM ≥ S\$100m</td> <td>S\$1 million</td> </tr> </tbody> </table> The size of the AUM of the fund for each basis period is calculated on the AUM at the end of the reporting period (typically, the end of the financial year of the fund). Red flag: The business spending requirement under the section 130 scheme can be incurred anywhere in the world in contrast to the section 13U business spending requirement which must be incurred solely in Singapore.	AUM Range	Minimum Total Business Spending	AUM < S\$50m	S\$200,000	S\$50m ≤ AUM < S\$100m	S\$500,000	AUM ≥ S\$100m	S\$1 million
AUM Range	Minimum Total Business Spending									
AUM < S\$50m	S\$200,000									
S\$50m ≤ AUM < S\$100m	S\$500,000									
AUM ≥ S\$100m	S\$1 million									
Local investment	No requirement for the fund to make a local investment.	The fund must invest at least 10% of its AUM or S\$10 million, whichever is lower , in local investments at any one point in time (see below). There will be a one (1) year grace period to make the local investments.								

		<p>Local investments may include:</p> <ul style="list-style-type: none"> i) equities listed on Singapore-licensed exchanges; ii) qualifying debt securities; iii) funds distributed by Singapore-licensed/ registered fund managers; and/or iv) private equity investments into non-listed Singapore-incorporated companies (e.g., start-ups) with operating business(es) in Singapore.
--	--	--

Section 13U (formerly 13X)

	Current conditions	New conditions (With effect from 18 April 2022)						
Minimum Asset Under Management ("AUM")	There is a minimum fund size of S\$50 million.	The minimum AUM requirement of S\$50 million remains unchanged.						
Investment professionals	The family office must employ at least three (3) Investment Professionals.	<p>The prescribed minimum of three (3) Investment Professionals remains unchanged.</p> <p>There is now an additional requirement that at least one (1) of the Investment Professionals employed is a non-family member.</p> <p>A one (1) year grace period is given to the family office to hire a non-family member as an Investment Professional, if it is unable to do so at the point of application.</p>						
Business spending	The fund must incur an annual local business spend of at least S\$200,000.	<p>The minimum annual local business spend will increase from S\$200,000 to S\$500,000 or S\$1 million (see below).</p> <p>Subject to a new "Tiered business spending framework" pegged to the AUM size as follows:</p> <table border="1" data-bbox="769 1630 1481 1841"> <thead> <tr> <th>AUM Range</th> <th>Minimum Local Business Spending</th> </tr> </thead> <tbody> <tr> <td>AUM < S\$100m</td> <td>S\$500,000</td> </tr> <tr> <td>AUM ≥ S\$100m</td> <td>S\$1 million</td> </tr> </tbody> </table> <p>The size of the AUM of the fund for each basis period is calculated on the AUM at the end of the reporting period (typically, the end of the financial year of the fund).</p>	AUM Range	Minimum Local Business Spending	AUM < S\$100m	S\$500,000	AUM ≥ S\$100m	S\$1 million
AUM Range	Minimum Local Business Spending							
AUM < S\$100m	S\$500,000							
AUM ≥ S\$100m	S\$1 million							

		<p>Red flag: The business spending requirement under the section 130 scheme can be incurred anywhere in the world in contrast to the section 13U business spending requirement, which must be incurred solely in Singapore.</p>
<p>Local investment</p>	<p>No requirement for the fund to make a local investment.</p>	<p>The fund must invest at least 10% of its AUM or S\$10 million, whichever is lower, in local investments at any one point in time (see below).</p> <p>There will be a one (1) year grace period to make the local investments.</p> <p>Local investments may include:</p> <ul style="list-style-type: none"> i) equities listed on Singapore-licensed exchanges; ii) qualifying debt securities; iii) funds distributed by Singapore-licensed/registered fund managers; and/or iv) private equity investments into non-listed Singapore-incorporated companies (e.g., start-ups) with operating business(es) in Singapore.

Initial thoughts on the Updated Conditions from our team:

- The new minimum AUM requirement for section 130, will mean that some families are no longer eligible to apply for the tax exemption.
- The new requirement to invest in local investments "at any point in time", will be challenging for trustees operating family office structures under SRIP trust deeds to monitor.
- Families will need to get comfortable with putting more of their hard-earned cash into local investments.
- The changes are likely to lead to more business for fund managers who distribute funds and are Singapore licensed or registered.
- Only one non-family investment professional required, this means that other family members, including adult children, can continue to act.
- It is not clear what rationale MAS will accept if a family office fails to employ a non-family member as one of the investment professionals, but we suspect that this may be addressed by a business plan proposing further expansion.

What now?

- If you are a trustee, operating a family office structure, you should review your standard investment management agreement, investment directions and letters of undertaking.
- Trustees may want to consider revising their standard investment management agreements and undertakings to include representations and warranties from the fund manager in relation to the Updated Conditions.
- Families will need to re-think their investment profile.
- Families should start to think about who they will appoint as an "investment professional" to the family office.
- Potential applicants for the Section 13O or 13U tax incentive schemes should consider whether it is feasible for them to make their preliminary submission to MAS before 18 April 2022. In practice, this may make little difference as MAS must respond to the application before 18 April 2022 for the applicant to escape the Updated Conditions.
- Families who have plans to undertake fund management activities on a larger scale (e.g., beyond a family owned and family funded structure) may also consider setting up a licensed fund management company (a CMS licenced entity or a Registered Fund Management Company) to manage their funds, as they are not affected by the Updated Conditions. They may also consider appointing a professional fund manager who is a CMS licensed entity or Registered Fund Management Company.

How can we help?

We regularly act for professional trustees and families in implementing family office structures. We cover our bases and approach the changes from all angles.

Do reach out to our team with any questions or views on the changes. We believe in a collaborative way of working. We look forward to hearing from you!

Get in touch



Suzanne Johnston

Partner

T: +65 6622 9649

E: suzanne.johnston@shlegal.com



Yi Lee

Managing associate

T: +65 6622 9562

E: yi.lee@shlegal.com



Suzanne Johnston

Partner

T: +65 6622 9649

E: suzanne.johnston@shlegal.com

Yi Lee

Managing associate

T: +65 6622 9562

E: yi.lee@shlegal.com

Stephenson Harwood is a law firm of over 1100 people worldwide, including 190 partners. Our people are committed to achieving the goals of our clients – listed and private companies, institutions and individuals.

We assemble teams of bright thinkers to match our clients' needs and give the right advice from the right person at the right time. Dedicating the highest calibre of legal talent to overcome the most complex issues, we deliver pragmatic, expert advice that is set squarely in the real world.

Our headquarters are in London, with eight offices across Asia, Europe and the Middle East. In addition, we have forged close ties with other high quality law firms. This diverse mix of expertise and culture results in a combination of deep local insight and the capability to provide a seamless international service.

The Stephenson Harwood (Singapore) Alliance is part of the Stephenson Harwood network and offers clients an integrated service in multi-jurisdictional matters involving permitted areas of Singapore law.