

July 2023

2023's changes to eligibility requirements for key tax incentives utilised by Singapore family offices: A practical guide



Speed read from our Singapore team

On 5 July 2023, the Monetary Authority of Singapore (the "**MAS**") announced new 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 which hold assets for or on behalf of a single family.

This includes:

- a) Family-owned 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.
- b) Family-owned fund vehicles managed or advised directly by a fund management company in Singapore holding a capital markets services ("**CMS**") licence or registered with MAS.

Which family office structures do the Updated Conditions not impact?

The Updated Conditions do not apply to investment funds set up by other applicants (i.e., non-single family offices). This includes institutional funds managed by licensed or registered fund managers and funds managed by licence exempt managers for immovable assets.

When do the changes come into force?

The Updated Conditions will apply to all new section 130 & 13U applications submitted to MAS from **5 July 2023, 10.00 AM** (inclusive).

The good news...

It appears that existing section 130 & 13U awarded funds, as well as clients who submitted the Annex A application to MAS before 5 July 2023, will **not** be subject to the Updated Conditions.

In addition, MAS has clarified that existing section 130 & 13U awarded funds, in particular, those who applied and were approved after 18 April 2022 may **choose** whether to fulfil the Updated Conditions, when submitting annual declarations due after 5 July 2023.

So, what are the Updated Conditions?

In a nutshell, the Updated Conditions make eligibility for the Section 130 & 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. The changes build on those introduced in 2022 by the MAS.

The key changes under the Updated Conditions are to the following:

- Removal of grace period
- Assets under management
- Investment professionals
- Minimum spending requirements

So, what are the Updated Conditions?

If the approved fund fails to satisfy the specified ongoing conditions for any basis period, the approved section 130/U fund will **not** enjoy the tax exemption on the "specified income" derived from "designated investments" for the basis period concerned.

The approved section 130/U fund can, however, enjoy tax exemption in any subsequent basis period during the life of the fund, if it is able to satisfy the specified conditions in the subsequent period. So, the tax exemption will not be lost altogether.

This is concerning as a basis period is generally regarded as 12 months preceding a year of assessment ("YA") which is dependent on a section 130/U fund's financial year. A plain reading would imply that in any month of a basis period where a section 130/U fund is unable to meet all ongoing conditions, it will not be able to enjoy the tax incentive for that YA but should it comply with such ongoing conditions, it can avail itself again to the tax incentive in the next YA.

Section 130 (formerly 13R)

	Old conditions (Applicable to applications made between 18 April 2022 and 4 July 2023 (inclusive))	New conditions (With effect from 5 July 2023)
Minimum Assets Under Management ("AUM")	There is a 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 .	There is a minimum AUM requirement of S\$20 million in designated investments at the point of application and throughout the incentive period. Under the Updated Conditions, there is no grace period to meet the minimum AUM requirement.
Investment professionals	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.	The prescribed minimum of two (2) Investment Professionals remains unchanged. However, this requirement commences at the point of application and throughout the incentive period. There is now also a requirement for the family office to employ at least one (1) non-family member Investment Professional. Under the Updated Conditions, there is no grace period to meet the minimum Investment Professional requirement.
Business spending	The annual total business spend for funds with an AUM below S\$50 million is S\$200,000.	Prior to the Updated Conditions, the business spending requirement could be met by spending incurred anywhere in the world. However, under the Updated

	<p>For funds with an AUM above S\$50 million, the amount of annual total business spend is subject to a "Tiered Spending Requirement" tagged to AUM size as follows:</p> <table border="1" data-bbox="316 515 769 1012"> <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> <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> <p>The business spending requirement under the section 130 scheme can be incurred anywhere in the world.</p>	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	<p>Conditions, business spending must be incurred solely in Singapore.</p> <p>The minimum local business spending is tagged to the AUM size of the fund and may be satisfied as follows:</p> <table border="1" data-bbox="794 501 1487 1518"> <thead> <tr> <th>AUM range</th> <th>Minimum local business spending:</th> </tr> </thead> <tbody> <tr> <td>AUM < S\$50m</td> <td>S\$200,000 local business spending</td> </tr> <tr> <td>S\$50m ≤ AUM < S\$100m</td> <td>S\$500,000 which may be met by: <ul style="list-style-type: none"> A minimum of S\$200,000 local business spend + Eligible donations to local charities + [Grants to blended finance structures → Recognised as 2x spending] </td> </tr> <tr> <td>AUM ≥ S\$100m</td> <td>S\$1 million which may be met by: <ul style="list-style-type: none"> A minimum of S\$200,000 local business spend + Eligible donations to local charities + [Grants to blended finance structures → Recognized as 2x spending] </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\$50m	S\$200,000 local business spending	S\$50m ≤ AUM < S\$100m	S\$500,000 which may be met by: <ul style="list-style-type: none"> A minimum of S\$200,000 local business spend + Eligible donations to local charities + [Grants to blended finance structures → Recognised as 2x spending] 	AUM ≥ S\$100m	S\$1 million which may be met by: <ul style="list-style-type: none"> A minimum of S\$200,000 local business spend + Eligible donations to local charities + [Grants to blended finance structures → Recognized as 2x spending]
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<p>Local investment</p>	<p>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>Minimum Capital Deployment Requirement ("CDR")</p> <p>The fund must invest at least 10% of its AUM or S\$10 million, whichever is lower, in the following options:</p> <ol style="list-style-type: none"> i) Equities, REITs, Business Trusts, or ETFs listed on MAS-approved exchanges; ii) Qualifying debt securities; iii) Non-listed funds distributed by licensed financial institutions in Singapore; iv) Climate-related investments; or 																

	<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. 	<p>v) Blended finance structures with substantial involvement of financial institutions in Singapore.</p> <p>The fund must meet the CDR by the end of the first full-year annual declaration and each subsequent financial year.</p> <p>The following investments will be scaled up by a multiplier when computing if the CDR has been met:</p> <table border="1" data-bbox="794 611 1465 1350"> <thead> <tr> <th data-bbox="794 611 954 667">Multiplier</th> <th data-bbox="954 611 1465 667">Options:</th> </tr> </thead> <tbody> <tr> <td data-bbox="794 667 954 1171">2x</td> <td data-bbox="954 667 1465 1171"> <ul 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; and • Deeply concessional capital in blended finance structures with substantial involvement of financial institutions in Singapore. </td> </tr> <tr> <td data-bbox="794 1171 954 1350">1.5x</td> <td data-bbox="954 1171 1465 1350"> <ul style="list-style-type: none"> • Concessional capital in blended finance structures with substantial involvement of financial institutions in Singapore. </td> </tr> </tbody> </table>	Multiplier	Options:	2x	<ul 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; and • Deeply concessional capital in blended finance structures with substantial involvement of financial institutions in Singapore. 	1.5x	<ul style="list-style-type: none"> • Concessional capital in blended finance structures with substantial involvement of financial institutions in Singapore.
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Section 13U (formerly 13X)

	Old conditions (Applicable to applications made between 18 April 2022 and 4 July 2023 (inclusive))	New conditions (With effect from 5 July 2023)
Minimum Asset Under Management ("AUM")	There is a minimum fund size of S\$50 million .	The minimum AUM requirement of S\$50 million in designated investments remains unchanged.
Investment professionals	<p>The family office must employ at least three (3) Investment Professionals.</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>The prescribed minimum of three (3) Investment Professionals with at least one (1) non-family member Investment Professional remains unchanged.</p> <p>Under the Updated Conditions, there is no longer any grace period. This requirement commences at the point of application and remains throughout the incentive period.</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>													
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<p>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.</p> <p>A one (1) year grace period is given to the fund to make the local investment.</p>	<p>Minimum Capital Deployment Requirement ("CDR")</p> <p>The fund must invest at least 10% of its AUM or S\$10 million, whichever is lower, in the following options:</p> <p>i) Equities, REITs, Business Trusts, or ETFs listed on MAS-approved exchanges;</p>												

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Initial thoughts on the Updated Conditions from our team:

- The new minimum S\$20 million AUM requirement for section 130 at the point of application, will mean that some families are no longer eligible to apply for the tax exemption as the grace period has been removed.
- While the new requirement to employ at least one (1) investment professional who is not a family member of the beneficial owner(s) may encourage employment in Singapore, the question is whether there are enough Singapore professionals who meet the academic qualifications and relevant formal work experience expected of investment professionals.
- The new requirement for families to fulfil the Capital Deployment Requirement (CDR) by the end of the first full-year annual declaration and each subsequent financial year, will be challenging for trustees operating family office structures under SRIP trust deeds to monitor.

- The multiplier option for computing CDR may encourage families to put more of their hard-earned cash into local investments.
- Under the section 130 scheme, given that the minimum business spending may now only be satisfied by local business spending, families must be comfortable with incurring business spending solely in Singapore. It's time to look at those portfolios!
- Once again, the changes do not impact institutional funds managed by licensed or registered fund managers and funds managed by licence exempt managers for immovable assets. So, the trend of an increased number of institutional funds looks set to continue.
- There is no grace period to meet the minimum conditions at the point of application, therefore families will need to ensure that they fulfil the requisite MAS requirements before application, to reduce the possibility of rejection of application.
- The new option to donate to local charities to meet the requirement for the annual total business spend under the Tiered Spending Requirement reflects Singapore's objective to encourage greater philanthropic giving among family offices and the growth of philanthropic capabilities in Singapore.
- Given that MAS has clarified that approved section 130/13U funds will not enjoy a tax exemption if they fail to satisfy the specified ongoing conditions for any basis period, greater supervision is required to ensure that all of the specified ongoing conditions are met throughout the basis period of each YA. This means more monitoring!

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 to ensure that they remain effective.
- 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 plan ahead to ensure that they can meet the new requirements, especially in relation to the new minimum AUM at the point of application.
- Families who are not able to meet the minimum local business spend may need to reconsider their philanthropic aims with a view to making donations to local charities to meet the minimum spending requirement.
- 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, entrepreneurs, and families in implementing family office structures. We cover our bases and are adept at providing straightforward easy to use advice.

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



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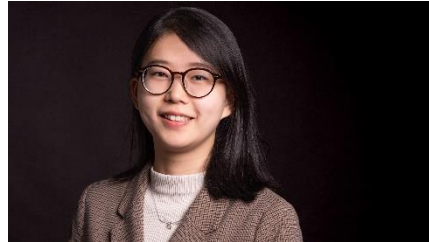


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