DREW & NAPIER

Updated Criteria for Sections 13O and 13U Applications for Family Offices

7 July 2023

LEGAL UPDATE

In this Update

The Monetary Authority of Singapore ("**MAS**") has further updated the criteria for applications for tax incentive schemes under section 13O and section 13U for fund vehicles managed by family offices. This update discusses how the latest changes will affect existing family offices and families which are considering setting up family offices in Singapore.

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KEYPOINT

MAS has further updated the criteria for applications for tax incentive schemes under section 13O and section 13U for fund vehicles managed by family offices. The changes took effect from 5 July 2023.

WHO WILL BE AFFECTED BY THE NEW CRITERIA?

All applications where the 'preliminary submission' or Annex A submission is made from 5 July 2023 onwards will be affected by the new criteria.

The new criteria do not apply to:

(a) funds which are in the process of applying for the incentives and for which the 'preliminary submission' had been made before 5 July 2023; and

(b) funds which had already been granted the section 13O or section 13U incentives.

However, such funds may choose to fulfil certain conditions under the updated criteria related to minimum business spending and local investments.

WHAT ARE THE MORE STRINGENT CRITERIA?

(1) Minimum AUM

Previously, section 13O funds were required to have a minimum fund size of S$10 million at the time of application and commit to increasing the AUM to S$20 million within a 2-year grace period, while section 13U funds were required to have a minimum fund size of S$50 million at the point of application.

Now, a section 13O/ section 13U applicant must have S$20 million/ S$50 million in <u>Designated Investments</u> at the point of application and <u>throughout the incentive period</u>. Designated Investments include most types of financial assets, non-Singapore real estate and certain commodities.

This change means that assets which fall outside the scope of Designated Investments can no longer be included in the minimum AUM required for the applications.

In addition, if the fund's AUM in Designated Investments falls below S$20 million/ S$50 million at any point after its award commences, it will not enjoy the tax exemption for that year.

(2) Investment professionals ("IP")

Section 13O funds were previously required to employ at least 2 IPs whereby 1 IP must be employed at the point of application and the second IP can be employed within a one-year grace period. There was no requirement that any IP must be a non-family member. For section 13U funds, at least 3 IPs must be employed with at least 1 IP being a non-family member. A one-year grace period would be given for the non-family member IP to be employed.

Currently, while 2 IPs are still required for a section 13O applicant, at least 1 IP must not be a family member of the beneficial owner. The requirement for the number of IPs for a section 13U applicant remains the same. However, for both section 13O and section 13U applicants, there will no longer be a grace period to employ the IPs. Instead, all the IPs must be employed by the family office at the point of application.

In addition, the MAS expects the IPs to have relevant formal work experience or academic qualifications (such as a degree in finance or relevant professional certification), with the exception of the wealth creator who only needs to demonstrate sufficient experience in managing personal wealth.

IPs (with the exception of the wealth creator) may only hold non-executive roles outside of the family office.

WHAT ARE THE OTHER UPDATED CRITERIA?

(1) Tiered spending requirement

Previously, section 13O funds must incur at least S$200,000 in total business spending annually, while section 13U funds must incur at least S$500,000 in local business spending annually. both of which are subject to a tiered business spending framework as follows:

AUM range	Minimum business spending
< S$50 million	S$200,000
S$50 million ≤ AUM < S$100 million	S$500,000
≥ S$100 million	S$1,000,000

Now, the business spending requirement is consistent for both section 13O and section 13U applicants. A mandatory minimum local business spending (which includes remuneration, management fees, tax advisory fees and operating costs) of S$200,000 will be applicable for all section 13O and section 13U applicants.

Where there is additional spending required under the tiered business spending framework for funds with AUM of S$50 million and above, donations to Singapore charities and IPCs may now count towards the additional business spending. In addition, grants to blended finance structures with substantial involvement of financial institutions in Singapore will be recognised as a 2x spending for the purpose of inclusion in the additional business spending.

(2) Minimum capital deployment requirement (“CDR”) in place of ‘local investment’

Section 13O and section 13U funds were required to invest at least 10% of their AUM or S$10 million, whichever is lower, in local investments, being:

(i) equities, REITs or Business Trusts listed on Singapore-approved exchanges;

(ii) qualifying debt securities;

(iii) funds distributed by Singapore-licensed/registered fund managers or financial institutions; and

(iv) private equity investments into non-listed Singapore-incorporated companies with operating business(es) and with substantive presence in Singapore.

Instead of a ‘local investments’ requirement, the updated criteria now require a minimum CDR of at least 10% of AUM or S$10 million, whichever is lower, in the 6 prescribed options below:

(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) 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 financial institutions in Singapore.

In addition, investments in the following will be recognised as a 2x investment towards the CDR:

(i) equities listed on MAS-approved exchanges;

(ii) ETFs with primary mandates to invest in Singapore-listed equities on MAS-approved exchanges;

(iii) non-listed funds distributed in Singapore with primary mandates to invest in Singapore-listed equities on MAS-approved exchanges; and

(iv) deeply concessional capital[14] in blended finance structures with substantial involvement of financial institutions in Singapore.

Investments in the form of concessional capital in blended finance structures with substantial involvement of financial institutions in Singapore will be recognised as a 1.5x investment towards the CDR.

(3) Application of tiered spending requirement and CDR

Funds to which the new criteria do not apply, can choose to fulfil the updated tiered spending requirement which may be more generous in terms of the types of spending permitted. They can also opt to fulfil their 'local investment' requirement by way of the 6 options available for CDR and benefit from the multiplier applicable for certain investments.

CONCLUDING THOUGHTS

The new requirement of the minimum AUM being in the form of Designated Investments throughout the incentive period will require careful monitoring such that top-ups to AUM (where necessary) may be made in a timely manner to avoid losing the tax exemption in the particular year.
Families intending to apply for the section 13O incentive will also need to consider if they are prepared to employ a non-family member IP.

If you have any questions or comments on this article, please contact:

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