

BDO Tax Alert

Changes to the Tax Incentive Schemes for non-SFO Funds

The Monetary Authority of Singapore ("MAS") issued Circular No.: FDD Cir 10/2024 on 1 October 2024 which provided some revisions to the tax incentive schemes for funds managed by Singapore-based fund managers.

The changes in the said Circular affect mainly non-SFO funds applying for the Sections 130, 130A¹ and 13U tax incentives. There are no major changes to the economic criteria to the SFO funds.

SFO funds, for this purpose, refer to fund vehicles which consist of assets primarily contributed, owned or controlled by one family or member(s) of the same family, and are managed by a fund manager, which in this case is a SFO that is exempted from licensing requirements under the Securities and Futures Act 2001.

Following from the above SFO definition, the relevant economic criteria for the application for Sections 130, 130A and 13U tax incentive schemes will fall into the following categories:

- 1. Non-SFO Funds:** Funds managed by a fund manager in Singapore holding a Capital Markets Services (CMS) license or is registered with the MAS. This includes:
 - Family-owned fund vehicles managed or advised directly by a licensed fund manager
 - External funds managed by a licensed fund manager
- 2. SFO Funds:** Fund vehicles which consist of assets primarily contributed, owned or controlled by one family or member(s) of the same family, and is managed by a SFO that is **exempted** from licensing requirements.

For this tax alert, we provide below, a summary of the economic criteria for Sections 13D, 130, 130A and 13U Schemes for non-SFO Funds **with effect from 1 January 2025:**

¹ With effect from 1 January 2025, the new section 130A of the Income Tax Act of Singapore will extend the Section 130 scheme to funds constituted as LPs registered under the Limited Partnerships Act 2008.

CONTACT US

KYLIE LUO
Executive Director
69902838
kylieluo@bdo.com.sg

WU SOO MEE
Executive Director
69902835
soomee@bdo.com.sg

CAROL SIM
Executive Director
69902567
carolsim@bdo.com.sg

HSU CHONG HOE
Executive Director
69902832
chonghoe@bdo.com.sg

ABNER KOH
Executive Director
69902833
abnerkoh@bdo.com.sg

NELSON TAN
Executive Director
60180230
nelsontan@bdo.com.sg

BDO TAX ADVISORY PTE LTD

600 North Bridge Road
#23-01 Parkview Square
Singapore 188778
Tel: +65 6828 9118
Fax: +65 6828 9111

www.bdo.com.sg

Non-SFO Funds

Section 130 and 130A

The table below compares the economic criteria for non-SFO funds before 1 January 2025 and from 1 January 2025 onwards for Section 130 tax incentive:

	Section 130									
	Before 1 January 2025	1 January 2025 and after								
Minimum AUM	NA	S\$5 million in DI at the end of every FY								
Minimum IPs	NA	Minimum 2 IPs								
Minimum spending	S\$200,000 in Total Business Spending	Local business spending that corresponds to AUM in DI at the end of each FY as follows: <table border="1" data-bbox="885 600 1481 786"> <thead> <tr> <th>AUM in DI at the end of FY (S\$)</th> <th>Minimum LBS (S\$)</th> </tr> </thead> <tbody> <tr> <td>AUM < 250 million</td> <td>200,000</td> </tr> <tr> <td>250 million ≤ AUM < S\$2 billion</td> <td>300,000</td> </tr> <tr> <td>AUM ≥ S\$2 billion</td> <td>500,000</td> </tr> </tbody> </table>	AUM in DI at the end of FY (S\$)	Minimum LBS (S\$)	AUM < 250 million	200,000	250 million ≤ AUM < S\$2 billion	300,000	AUM ≥ S\$2 billion	500,000
AUM in DI at the end of FY (S\$)		Minimum LBS (S\$)								
AUM < 250 million		200,000								
250 million ≤ AUM < S\$2 billion		300,000								
AUM ≥ S\$2 billion	500,000									
Minimum Capital Deployment	NA									

The updated conditions under the 1 January 2025 and after column would also apply to the application for Section 130A tax incentive.

Existing awards for the Section 130 tax incentive and new awards for the Sections 130 and 130A tax incentives will be allowed the following grace period to meet the above criteria:

	Existing Awards	New Awards	
	Prior to 1 Jan 2025	Between 1 Jan 2025 and FY ending in 2026	Ending in 2027
Minimum AUM	From FY ending in 2027 (YA 2028) Continue to fulfill S\$200,000 TBS requirement in FY's prior to FY 2027	By the end of the third year of incentive and to maintain it in every FY thereafter	By the end of the third year of incentive and to maintain it in every FY thereafter
Minimum IPs		From FY ending in 2027 (YA 2028)	From the first year of the incentive (i.e. in 2027)
Minimum spending			

Other changes affecting Section 130

- a. Condition that a Section 130 fund must be a newly set-up company.
 - Condition that the fund is not a person that was previously carrying in a business in Singapore, where that business in Singapore generated income that would not have been tax-exempted is removed.
 - All investments acquired by S130 funds are to be acquired on market terms and conditions, whether before or after receiving the approval of a S130 application.
- b. Waiver of the 30/50 rule for investors of S130 funds, which are trusts and unit trusts incentivised under the S13D scheme with effect from YA 2025. This ensures that S13D trusts and unit trusts are not inadvertently discouraged from investing in a S130 fund. This should apply to Section 130A tax incentives as well.
- c. Requirement that the S130 fund vehicle may only serve the investment strategy that has been approved by MAS.
 - This requirement is removed to provide certainty for S130 funds. This is in recognition that changes in investment strategy for bona fide commercial reasons are common.
 - S130 funds should continue to update MAS of any change in investment strategy for information.

Section 13U

The table below compares the economic criteria for non-SFO funds before 1 January 2025 and from 1 January 2025 onwards for Section 13U tax incentive.

	Section 13U									
	Before 1 January 2025	1 January 2025 and after								
Minimum AUM	S\$50 million at point of application	S\$50 million of AUM in DI at point of application and must maintain as at the end of each FY								
Minimum IPs		3Ps								
Minimum spending	S\$200,000 in Local Business Spending	Local business spending that corresponds to AUM in DI at the end of each FY as follows: <table border="1" data-bbox="901 542 1487 739"> <thead> <tr> <th>AUM in DI at the end of FY (S\$)</th> <th>Minimum LBS (S\$)</th> </tr> </thead> <tbody> <tr> <td>AUM < 250 million</td> <td>200,000</td> </tr> <tr> <td>250 million ≤ AUM < S\$2 billion</td> <td>300,000</td> </tr> <tr> <td>AUM ≥ S\$2 billion</td> <td>500,000</td> </tr> </tbody> </table>	AUM in DI at the end of FY (S\$)	Minimum LBS (S\$)	AUM < 250 million	200,000	250 million ≤ AUM < S\$2 billion	300,000	AUM ≥ S\$2 billion	500,000
AUM in DI at the end of FY (S\$)	Minimum LBS (S\$)									
AUM < 250 million	200,000									
250 million ≤ AUM < S\$2 billion	300,000									
AUM ≥ S\$2 billion	500,000									
Minimum Capital Deployment		NA								

Existing non-SFO Section 13U funds or structures with awards commencing prior to 1 January 2025 are given a grace period till **FY ending in 2027 (YA2028)** to fulfill the above updated economic criteria.

Other changes affecting Section 13U

- Removal of the requirement that the S13U fund vehicle may only serve the investment purpose that has been approved by MAS. Similar to S13O funds, this requirement is removed. S13U funds should continue to update MAS of any change in investment strategy for information.
- Removal of additional minimum AUM and LBS requirements in respect of a SPV or trading feeder fund for S13U fund structures, i.e. any S13U structure will only need to meet the economic criteria as though the structure is a single fund entity, regardless of any trading feeder funds or SPVs in the structure.
Current rules - For every additional SPV or trading feeder fund in a S13U structure, the S13U structure must fulfil an additional S\$50 million of AUM at the point of application and incur an additional S\$200,000 LBS annually.

Section 13D

The minimum economic commitment will be revised for non-SFO funds (as well as for SFO-funds) to ensure that Section 13D funds have a minimum level of economic substance in Singapore.

With effect from FY ending in 2027 (YA 2028), Section 13D funds must be managed or advised directly by a fund manager in Singapore with at least one investment professional in each FY to avail of the tax exemption in the corresponding YA. The requirement to employ at least 1 IP will be self-assessed by the S13D fund for purposes of availing of the tax exemption under S13D.

Introduction of a "closed-end fund" treatment

The MAS also introduced a "closed-end fund" treatment as an option for non-SFO Section 13O, S13OA or S13U applicants.

The details provided by the MAS are as follows:

- ▶ Closed-end funds are typically funds with fixed lifespans, commonly ten years, and have designated fund raising and redemption period(s) (e.g. PE and VC funds). The AUM and LBS will also decrease over the fund's lifespan as investments are divested, typically starting after the fifth year.
- ▶ S13O, S13OA or S13U non-SFO applicants with awards commencing on or after 1 January 2025 may voluntarily opt into a "closed-end fund" treatment with the following key features:
 - The annual AUM requirement will have to be met from the fund's first incentive year to the fifth incentive year (inclusive), and will be waived from the sixth incentive year onwards.

- The annual LBS condition will have to be met on a cumulative basis up to the tenth incentive year (inclusive) and will be waived from the eleventh incentive year onwards.
- The fund is required to have its S13O, S13OA or S13U award revoked with effect from the end of its divestment phase, or the day immediately after its 20th incentive year, whichever is earlier, in line with the premise that the fund has a fixed lifespan.

The election into the "closed-end fund" treatment is irrevocable. Existing S13O, S13OA, or S13U funds may also apply for the "closed-end fund" treatment, and such an application would entail the revocation of the existing incentive award and the application for a new award.

Conclusion

The updated conditions above are generally viewed as reasonable, but there is one key challenge and that is maintaining the minimum AUM requirement at the end of every financial year.

Previously, MAS acknowledged that external factors like investment performance and investor redemptions could affect the fund's size, and these were outside of the fund manager's control. However, under the new conditions, MAS requires that the minimum AUM be met at the financial year's end, regardless of these external factors.

For non-SFO funds, market forces will typically determine the optimal size of the fund. If the fund is no longer sustainable due to market conditions, it is expected that the licensed fund manager will close the fund and terminate the tax incentive.

The updated requirement to maintain the minimum AUM at the end of the financial year creates uncertainty for fund managers, particularly if the AUM drops unexpectedly due to factors such as poor investment performance or investor redemptions.

Given the above, it would be ideal if the MAS could reconsider this condition, offering more flexibility, particularly in cases where the AUM drop is due to factors that are outside the control of the fund manager. A more reasonable approach could be to take into account the fund manager's efforts in managing these situations. Even better would be a return to the previous stance, where the minimum AUM requirement only had to be met at the time of the application, which would provide more certainty and stability for fund managers. Market conditions will naturally determine the optimal fund size.

Until any change is made, fund managers will have to closely monitor their AUM levels throughout the year to ensure they meet the requirement to continue to enjoy the tax exemption. Fund managers may even need to resort to taking on leverage specially to meet the above-mentioned AUM requirement, which may not be practical in the first place. This places additional pressure on their operations and planning.

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